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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Cuba:* draft resolution

The right to development

The General Assembly,

Guided by the Charter of the United Nations, which expresses, in particular, the determination to promote social progress and better standards of life in larger freedom, as well as to employ international mechanisms for the promotion of the economic and social advancement of all peoples,

Recalling the Universal Declaration of Human Rights,[1] as well as the International Covenant on Civil and Political Rights[2] and the International Covenant on Economic, Social and Cultural Rights,[2]

Recalling also the outcomes of all the major United Nations conferences and summits in the economic and social fields,

Recalling further that the Declaration on the Right to Development, adopted by the General Assembly in its resolution 41/128 of 4 December 1986, confirmed that the right to development is an inalienable human right and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations, and that the individual is the central subject and beneficiary of development,

Stressing that the Vienna Declaration and Programme of Action[3] reaffirmed the right to development as a universal and inalienable right and an integral part of

* On behalf of the States Members of the United Nations that are members of the Movement of Non-Aligned Countries.

[1] Resolution 217 A (III).

[2] See resolution 2200 A (XXI), annex.

[3] A/CONF.157/24 (Part I), chap. III.

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fundamental human rights, and the individual as the central subject and beneficiary of development,

Reaffirming the objective of making the right to development a reality for everyone, as set out in the United Nations Millennium Declaration, adopted by the General Assembly on 8 September 2000,[4]

Deeply concerned that the majority of indigenous peoples in the world live in conditions of poverty, and recognizing the critical need to address the negative impact of poverty and inequity on indigenous peoples by ensuring their full and effective inclusion in development and poverty eradication programmes,

Reaffirming the universality, indivisibility, interrelatedness, interdependence and mutually reinforcing nature of all civil, cultural, economic, political and social rights, including the right to development,

Expressing deep concern over the suspension once again of the trade negotiations of the World Trade Organization, and reaffirming the need for a successful outcome of the Doha Development Round in key areas such as agriculture, market access for non-agricultural products, trade facilitation, development and services,

Recalling the outcome of the eleventh session of the United Nations Conference on Trade and Development, held in São Paulo, Brazil, from 13 to 18 June 2004, on the theme "Enhancing the coherence between national development strategies and global economic processes towards economic growth and development, particularly of developing countries",[5]

Recalling also all its previous resolutions, Human Rights Council resolution 9/3 of 24 September 2008,[6] previous resolutions of the Council and those of the Commission on Human Rights on the right to development, in particular Commission resolution 1998/72 of 22 April 1998,[7] on the urgent need to make further progress towards the realization of the right to development as set out in the Declaration on the Right to Development,

Welcoming the outcome of the ninth session of the Working Group on the Right to Development of the Human Rights Council, held in Geneva from 18 to 22 August 2008, as contained in the report of the Working Group[8] and as referred to in the report of the Secretary-General on the right to development,[9]

Recalling the Fourteenth Conference of Heads of State or Government of Non-Aligned Countries, held in Havana on 15 and 16 September 2006, the Fifteenth Ministerial Meeting of the Coordinating Bureau of the Movement of Non-Aligned Countries, held in Tehran on 29 and 30 July 2008, and the Ministerial Meeting of the Coordinating Bureau of the Movement of Non-Aligned Countries, held in Putrajaya, Malaysia, on 29 and 30 May 2006,

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[4] See resolution 55/2.

[5] See TD/412.

[6] See A/HRC/9/L.11, sect. A.

[7] See *Official Records of the Economic and Social Council, 1998, Supplement No. 3* (E/1998/23), chap. II, sect. A.

[8] A/HRC/9/17.

[9] A/63/340.

Reiterating its continuing support for the New Partnership for Africa's Development[10] as a development framework for Africa,

Recognizing that poverty is an affront to human dignity,

Recognizing also that extreme poverty and hunger are the greatest global threat that requires the collective commitment of the international community for its eradication, pursuant to Millennium Development Goal 1, and therefore calling upon the international community, including the Human Rights Council, to contribute towards achieving that goal,

Recognizing further that historical injustices have undeniably contributed to the poverty, underdevelopment, marginalization, social exclusion, economic disparity, instability and insecurity that affect many people in different parts of the world, in particular in developing countries,

Stressing that poverty eradication is one of the critical elements in the promotion and realization of the right to development and that poverty is a multifaceted problem that requires a multifaceted and integrated approach in addressing economic, political, social, environmental and institutional dimensions at all levels, especially in the context of the Millennium Development Goal of halving, by 2015, the proportion of the world's people whose income is less than one dollar a day and the proportion of people who suffer from hunger,

1. *Endorses* the conclusions and recommendations adopted by consensus by the Working Group on the Right to Development of the Human Rights Council at its ninth session,[8] and calls for their immediate, full and effective implementation by the Office of the United Nations High Commissioner for Human Rights and other relevant actors;

2. *Supports* the realization of the mandate of the Working Group as renewed by the Human Rights Council in its resolution 9/3,[6] with the recognition that the Working Group will convene annual sessions of five working days and present its reports to the Council;

3. *Also supports* the realization of the mandate of the high-level task force on the implementation of the right to development, established within the framework of the Working Group, as renewed by the Human Rights Council in its resolution 9/3, with the further recognition that the task force will convene annual sessions of seven working days and present its reports to the Working Group;

4. *Emphasizes* the relevant provisions of General Assembly resolution 60/251 of 15 March 2006 establishing the Human Rights Council, and in this regard calls upon the Council to implement the agreement:

(a) To continue to act to ensure that its agenda promotes and advances sustainable development and the achievements of the Millennium Development Goals;

(b) To lead to raising the right to development, as set out in paragraphs 5 and 10 of the Vienna Declaration and Programme of Action,[3] to the same level and on a par with all other human rights and fundamental freedoms;

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[10] A/57/304, annex.

5. *Notes with appreciation* that the high-level task force, at its second meeting, examined Millennium Development Goal 8, on developing a global partnership for development, and suggested criteria for its periodic evaluation with the aim of improving the effectiveness of global partnership with regard to the realization of the right to development;[11]

6. *Stresses* the importance of endorsement of the workplan for the task force for the period 2008-2010, outlined in paragraph 43 of the report of the Working Group,[8] which would ensure that the criteria for the periodic evaluation of global partnerships, as identified in Millennium Development Goal 8, to be submitted by the task force to the Working Group at its eleventh session in 2010, is extended to other components of Millennium Development Goal 8;

7. *Also stresses* that the above criteria, once considered, revised and endorsed by the Working Group, should be used, as appropriate, in the elaboration of a comprehensive and coherent set of standards for the implementation of the right to development;

8. *Emphasizes* the importance that, upon completion of the three phases of the road map, the Working Group take appropriate steps to ensure respect for and practical application of these standards, which could take various forms, including guidelines on the implementation of the right to development, and evolve into a basis for consideration of an international legal standard of a binding nature, through a collaborative process of engagement;

9. *Stresses* the importance of the core principles contained in the conclusions of the Working Group at its third session,[12] congruent with the purpose of international human rights instruments, such as equality, non-discrimination, accountability, participation and international cooperation, as critical to mainstreaming the right to development at the national and international levels, and underlines the importance of the principles of equity and transparency;

10. *Also stresses* that it is important that the high-level task force and the Working Group, in the discharge of their mandates, take into account the need:

(a) To promote the democratization of the system of international governance in order to increase the effective participation of developing countries in international decision-making;

(b) To also promote effective partnerships such as the New Partnership for Africa's Development[10] and other similar initiatives with the developing countries, particularly the least developed countries, for the purpose of the realization of their right to development, including the achievement of the Millennium Development Goals;

(c) To strive for greater acceptance, operationalization and realization of the right to development at the international level, while urging all States to undertake at the national level the necessary policy formulation and to institute the measures required for the implementation of the right to development as a fundamental human right, and also urging all States to expand and deepen mutually beneficial cooperation in ensuring development and eliminating obstacles to development in

[11] See E/CN.4/2005/WG.18/TF/3.

[12] E/CN.4/2002/28/Rev.1, sect. VIII.A.

the context of promoting effective international cooperation for the realization of the right to development, bearing in mind that lasting progress towards the implementation of the right to development requires effective development policies at the national level as well as equitable economic relations and a favourable economic environment at the international level;

(d) To consider ways and means to continue to ensure the operationalization of the right to development as a priority;

(e) To mainstream the right to development in the policies and operational activities of the United Nations and the specialized agencies, programmes and funds, as well as in policies and strategies of the international financial and multilateral trading systems, taking into account in this regard that the core principles of the international economic, commercial and financial spheres, such as equity, non-discrimination, transparency, accountability, participation and international cooperation, including effective partnerships for development, are indispensable in achieving the right to development and preventing discriminatory treatment arising out of political or other non-economic considerations, in addressing the issues of concern to the developing countries;

11. *Requests* the Human Rights Council to consider how to ensure that its Advisory Committee pursues the ongoing work of the former Subcommission on the Promotion and Protection of Human Rights on the right to development, in accordance with the relevant provisions of General Assembly and Commission on Human Rights resolutions, and in compliance with decisions to be taken by the Human Rights Council, and requests the Secretary-General to report on progress in this regard to the Assembly at its sixty-fourth session;

12. *Invites* Member States and all other stakeholders to participate actively in future sessions of the Social Forum, while recognizing the strong support extended to the Forum at its previous four sessions by the Subcommission on the Promotion and Protection of Human Rights;

13. *Reaffirms* the commitment to implement the goals and targets set out in all the outcome documents of the major United Nations conferences and summits and their review processes, in particular those relating to the realization of the right to development, recognizing that the realization of the right to development is critical to achieving the objectives, goals and targets set in those outcome documents;

14. *Also reaffirms* that the realization of the right to development is essential to the implementation of the Vienna Declaration and Programme of Action, which regards all human rights as universal, indivisible, interdependent and interrelated, places the human person at the centre of development and recognizes that, while development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgement of internationally recognized human rights;

15. *Stresses* that the primary responsibility for the promotion and protection of all human rights lies with the State, and reaffirms that States have the primary responsibility for their own economic and social development and that the role of national policies and development strategies cannot be overemphasized;

16. *Reaffirms* the primary responsibility of States to create national and international conditions favourable to the realization of the right to development, as well as their commitment to cooperate with each other to that end;

17. *Also reaffirms* the need for an international environment that is conducive to the realization of the right to development;

18. *Stresses* the need to strive for greater acceptance, operationalization and realization of the right to development at the international and national levels, and calls upon States to institute the measures required for the implementation of the right to development as a fundamental human right;

19. *Emphasizes* the critical importance of identifying and analysing obstacles impeding the full realization of the right to development at both the national and the international levels;

20. *Affirms* that, while globalization offers both opportunities and challenges, the process of globalization remains deficient in achieving the objectives of integrating all countries into a globalized world, and stresses the need for policies and measures at the national and global levels to respond to the challenges and opportunities of globalization if this process is to be made fully inclusive and equitable;

21. *Recognizes* that, despite continuous efforts on the part of the international community, the gap between developed and developing countries remains unacceptably wide, that developing countries continue to face difficulties in participating in the globalization process and that many risk being marginalized and effectively excluded from its benefits;

22. *Expresses its deep concern* in this regard at the further aggravation of the economic and social situation of developing countries as the result of the ongoing international energy, food and financial crises;

23. *Underlines* the fact that the international community is far from meeting the target set in the United Nations Millennium Declaration[4] of halving the number of people living in poverty by 2015 and, concerned about the worsening of the current global food crisis, reaffirms the commitment made to meet that target, and emphasizes the principle of international cooperation, including partnership and commitment, between developed and developing countries towards achieving the goal;

24. *Urges* developed countries that have not yet done so to make concrete efforts towards meeting the targets of 0.7 per cent of their gross national product for official development assistance to developing countries and 0.15 to 0.2 per cent of their gross national product to least developed countries, and encourages developing countries to build on the progress achieved in ensuring that official development assistance is used effectively to help to meet development goals and targets;

25. *Recognizes* the need to address market access for developing countries, including in agriculture, services and non-agricultural products, in particular those of interest to developing countries;

26. *Calls for* the implementation of a desirable pace of meaningful trade liberalization, including in areas under negotiation; implementation of commitments on implementation-related issues and concerns; review of special and differential

treatment provisions, with a view to strengthening them and making them more precise, effective and operational; avoidance of new forms of protectionism; and capacity-building and technical assistance for developing countries as important issues in making progress towards the effective implementation of the right to development;

27. *Recognizes* the important link between the international economic, commercial and financial spheres and the realization of the right to development, stresses, in this regard, the need for good governance and broadening the base of decision-making at the international level on issues of development concern and the need to fill organizational gaps, as well as strengthen the United Nations system and other multilateral institutions, and also stresses the need to broaden and strengthen the participation of developing countries and countries with economies in transition in international economic decision-making and norm-setting;

28. *Also recognizes* that good governance and the rule of law at the national level assist all States in the promotion and protection of human rights, including the right to development, and agrees on the value of the ongoing efforts being made by States to identify and strengthen good governance practices, including transparent, responsible, accountable and participatory government, that are responsive and appropriate to their needs and aspirations, including in the context of agreed partnership approaches to development, capacity-building and technical assistance;

29. *Further recognizes* the important role and the rights of women and the application of a gender perspective as a cross-cutting issue in the process of realizing the right to development, and notes in particular the positive relationship between women's education and their equal participation in the civil, cultural, economic, political and social activities of the community and the promotion of the right to development;

30. *Stresses* the need for the integration of the rights of children, girls and boys alike, in all policies and programmes, and for ensuring the promotion and protection of those rights, especially in areas relating to health, education and the full development of their capacities;

31. *Welcomes* the Political Declaration on HIV/AIDS adopted at the High-level Meeting of the General Assembly on 2 June 2006,[13] stresses that further and additional measures must be taken at the national and international levels to fight HIV/AIDS and other communicable diseases, taking into account ongoing efforts and programmes, and reiterates the need for international assistance in this regard;

32. *Also welcomes* the entry into force of the Convention on the Rights of Persons with Disabilities[14] on 3 May 2008;

33. *Emphasizes its commitment* to indigenous peoples in the process of realization of the right to development, and stresses the commitment to ensure their rights in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security recognized in international human rights obligations and highlighted in the United Nations Declaration on the Rights of Indigenous Peoples as adopted by the General Assembly in its resolution 61/295 of 13 September 2007;

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[13] Resolution 60/262, annex.

[14] Resolution 61/106, annex I.

34. *Recognizes* the need for strong partnerships with civil society organizations and the private sector in pursuit of poverty eradication and development, as well as for corporate social responsibility;

35. *Emphasizes* the urgent need for taking concrete and effective measures to prevent, combat and criminalize all forms of corruption at all levels, to prevent, detect and deter in a more effective manner international transfers of illicitly acquired assets and to strengthen international cooperation in asset recovery consistent with the principles of the United Nations Convention against Corruption,[15] particularly chapter V thereof, stresses the importance of a genuine political commitment on the part of all Governments through a firm legal framework, and in this context urges States to sign and ratify as soon as possible, and States parties to implement effectively, the Convention;

36. *Also emphasizes* the need to strengthen further the activities of the Office of the United Nations High Commissioner for Human Rights in the promotion and realization of the right to development, including ensuring effective use of the financial and human resources necessary to fulfil its mandate, and calls upon the Secretary-General to provide the Office of the High Commissioner with the necessary resources;

37. *Reaffirms* the request to the High Commissioner, in mainstreaming the right to development, to undertake effectively activities aimed at strengthening the global partnership for development between Member States, development agencies and the international development, financial and trade institutions, and to reflect those activities in detail in her next report to the Human Rights Council;

38. *Calls upon* the United Nations agencies, funds and programmes, as well as the specialized agencies, to mainstream the right to development in their operational programmes and objectives, and stresses the need for the international financial and multilateral trading systems to mainstream the right to development in their policies and objectives;

39. *Requests* the Secretary-General to bring the present resolution to the attention of Member States, United Nations organs and bodies, specialized agencies, funds and programmes, international development and financial institutions, in particular the Bretton Woods institutions, and non-governmental organizations;

40. *Also requests* the Secretary-General to submit a report to the General Assembly at its sixty-fourth session and an interim report to the Human Rights Council on the implementation of the present resolution, including efforts undertaken at the national, regional and international levels in the promotion and realization of the right to development, and invites the Chairperson of the Working Group on the Right to Development to present a verbal update to the Assembly at its sixty-fourth session.

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[15] United Nations, *Treaty Series*, vol. 2349, No. 42146.

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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

China, Côte d'Ivoire, Cuba,* Dominica, El Salvador and Somalia: revised draft resolution

The right to development

The General Assembly,

Guided by the Charter of the United Nations, which expresses, in particular, the determination to promote social progress and better standards of life in larger freedom, as well as to employ international mechanisms for the promotion of the economic and social advancement of all peoples,

Recalling the Universal Declaration of Human Rights,[1] as well as the International Covenant on Civil and Political Rights[2] and the International Covenant on Economic, Social and Cultural Rights,[2]

Recalling also the outcomes of all the major United Nations conferences and summits in the economic and social fields,

Recalling further that the Declaration on the Right to Development, adopted by the General Assembly in its resolution 41/128 of 4 December 1986, confirmed that the right to development is an inalienable human right and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations, and that the individual is the central subject and beneficiary of development,

Stressing that the Vienna Declaration and Programme of Action[3] reaffirmed the right to development as a universal and inalienable right and an integral part of

* On behalf of the States Members of the United Nations that are members of the Movement of Non-Aligned Countries.

[1] Resolution 217 A (III).

[2] See resolution 2200 A (XXI), annex.

[3] A/CONF.157/24 (Part I), chap. III.

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fundamental human rights, and the individual as the central subject and beneficiary of development,

Reaffirming the objective of making the right to development a reality for everyone, as set out in the United Nations Millennium Declaration, adopted by the General Assembly on 8 September 2000,[4]

Deeply concerned that the majority of indigenous peoples in the world live in conditions of poverty, and recognizing the critical need to address the negative impact of poverty and inequity on indigenous peoples by ensuring their full and effective inclusion in development and poverty eradication programmes,

Reaffirming the universality, indivisibility, interrelatedness, interdependence and mutually reinforcing nature of all civil, cultural, economic, political and social rights, including the right to development,

Expressing deep concern over the lack of progress in the trade negotiations of the World Trade Organization, and reaffirming the need for a successful outcome of the Doha Development Round in key areas such as agriculture, market access for non-agricultural products, trade facilitation, development and services,

Recalling the outcome of the twelfth session of the United Nations Conference on Trade and Development, held in Accra from 20 to 25 April 2008 on the theme "Addressing the opportunities and challenges of globalization for development",[5]

Recalling also all its previous resolutions, Human Rights Council resolution 9/3 of 24 September 2008,[6] previous resolutions of the Council and those of the Commission on Human Rights on the right to development, in particular Commission resolution 1998/72 of 22 April 1998,[7] on the urgent need to make further progress towards the realization of the right to development as set out in the Declaration on the Right to Development,

Welcoming the outcome of the ninth session of the Working Group on the Right to Development of the Human Rights Council, held in Geneva from 18 to 22 August 2008, as contained in the report of the Working Group[8] and as referred to in the report of the Secretary-General on the right to development,[9]

Recalling the Fourteenth Conference of Heads of State or Government of Non-Aligned Countries, held in Havana on 15 and 16 September 2006, the Fifteenth Ministerial Meeting of the Coordinating Bureau of the Movement of Non-Aligned Countries, held in Tehran on 29 and 30 July 2008, and the Ministerial Meeting of the Coordinating Bureau of the Movement of Non-Aligned Countries, held in Putrajaya, Malaysia, on 29 and 30 May 2006,

Reiterating its continuing support for the New Partnership for Africa's Development[10] as a development framework for Africa,

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[4] See resolution 55/2.

[5] See TD/442.

[6] See A/HRC/9/L.11, sect. A.

[7] See *Official Records of the Economic and Social Council, 1998, Supplement No. 3* (E/1998/23), chap. II, sect. A.

[8] A/HRC/9/17.

[9] A/63/340.

[10] A/57/304, annex.

Recognizing that poverty is an affront to human dignity,

Recognizing also that extreme poverty and hunger are the greatest global threat that requires the collective commitment of the international community for its eradication, pursuant to Millennium Development Goal 1, and therefore calling upon the international community, including the Human Rights Council, to contribute towards achieving that goal,

Recognizing further that historical injustices have undeniably contributed to the poverty, underdevelopment, marginalization, social exclusion, economic disparity, instability and insecurity that affect many people in different parts of the world, in particular in developing countries,

Stressing that poverty eradication is one of the critical elements in the promotion and realization of the right to development and that poverty is a multifaceted problem that requires a multifaceted and integrated approach in addressing economic, political, social, environmental and institutional dimensions at all levels, especially in the context of the Millennium Development Goal of halving, by 2015, the proportion of the world's people whose income is less than one dollar a day and the proportion of people who suffer from hunger,

1. *Endorses* the conclusions and recommendations adopted by consensus by the Working Group on the Right to Development of the Human Rights Council at its ninth session,[5] and calls for their immediate, full and effective implementation by the Office of the United Nations High Commissioner for Human Rights and other relevant actors;

2. *Supports* the realization of the mandate of the Working Group as renewed by the Human Rights Council in its resolution 9/3,[6] with the recognition that the Working Group will convene annual sessions of five working days and present its reports to the Council;

3. *Also supports* the realization of the mandate of the high-level task force on the implementation of the right to development, established within the framework of the Working Group, as renewed by the Human Rights Council in its resolution 9/3, with the further recognition that the task force will convene annual sessions of seven working days and present its reports to the Working Group;

4. *Emphasizes* the relevant provisions of General Assembly resolution 60/251 of 15 March 2006 establishing the Human Rights Council, and in this regard calls upon the Council to implement the agreement to continue to act to ensure that its agenda promotes and advances sustainable development and the achievements of the Millennium Development Goals, and also in this regard, to lead to raising the right to development, as set out in paragraphs 5 and 10 of the Vienna Declaration and Programme of Action,[3] to the same level and on a par with all other human rights and fundamental freedoms;

5. *Notes with appreciation* that the high-level task force, at its second meeting, examined Millennium Development Goal 8, on developing a global partnership for development, and suggested criteria for its periodic evaluation with the aim of improving the effectiveness of global partnership with regard to the realization of the right to development;[11]

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[11] See E/CN.4/2005/WG.18/TF/3.

6. *Stresses* the importance of endorsement of the workplan for the task force for the period 2008-2010, outlined in paragraph 43 of the report of the Working Group,[8] which requires that the criteria for the periodic evaluation of global partnerships, as identified in Millennium Development Goal 8, to be submitted by the task force to the Working Group at its eleventh session in 2010, is extended to other components of Millennium Development Goal 8;

7. *Also stresses* that the above criteria, once considered, revised and endorsed by the Working Group, should be used, as appropriate, in the elaboration of a comprehensive and coherent set of standards for the implementation of the right to development;

8. *Emphasizes* the importance that, upon completion of the three phases of the road map, the Working Group take appropriate steps to ensure respect for and practical application of these standards, which could take various forms, including guidelines on the implementation of the right to development, and evolve into a basis for consideration of an international legal standard of a binding nature, through a collaborative process of engagement;

9. *Stresses* the importance of the core principles contained in the conclusions of the Working Group at its third session,[12] congruent with the purpose of international human rights instruments, such as equality, non-discrimination, accountability, participation and international cooperation, as critical to mainstreaming the right to development at the national and international levels, and underlines the importance of the principles of equity and transparency;

10. *Also stresses* that it is important that the high-level task force and the Working Group, in the discharge of their mandates, take into account the need:

(a) To promote the democratization of the system of international governance in order to increase the effective participation of developing countries in international decision-making;

(b) To also promote effective partnerships such as the New Partnership for Africa's Development[10] and other similar initiatives with the developing countries, particularly the least developed countries, for the purpose of the realization of their right to development, including the achievement of the Millennium Development Goals;

(c) To strive for greater acceptance, operationalization and realization of the right to development at the international level, while urging all States to undertake at the national level the necessary policy formulation and to institute the measures required for the implementation of the right to development as an integral part of fundamental human rights, and also urging all States to expand and deepen mutually beneficial cooperation in ensuring development and eliminating obstacles to development in the context of promoting effective international cooperation for the realization of the right to development, bearing in mind that lasting progress towards the implementation of the right to development requires effective development policies at the national level and a favourable economic environment at the international level;

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[12] E/CN.4/2002/28/Rev.1, sect. VIII.A.

(d) To consider ways and means to continue to ensure the operationalization of the right to development as a priority;

(e) To mainstream the right to development in the policies and operational activities of the United Nations and the specialized agencies, programmes and funds, as well as in policies and strategies of the international financial and multilateral trading systems, taking into account in this regard that the core principles of the international economic, commercial and financial spheres, such as equity, non-discrimination, transparency, accountability, participation and international cooperation, including effective partnerships for development, are indispensable in achieving the right to development and preventing discriminatory treatment arising out of political or other non-economic considerations, in addressing the issues of concern to the developing countries;

11. *Encourages* the Human Rights Council to consider how to ensure follow-up to the ongoing work of the former Subcommission on the Promotion and Protection of Human Rights on the right to development, in accordance with the relevant provisions of General Assembly and Commission on Human Rights resolutions, and in compliance with decisions to be taken by the Human Rights Council;

12. *Invites* Member States and all other stakeholders to participate actively in future sessions of the Social Forum, while recognizing the strong support extended to the Forum at its previous four sessions by the Subcommission on the Promotion and Protection of Human Rights;

13. *Reaffirms* the commitment to implement the goals and targets set out in all the outcome documents of the major United Nations conferences and summits and their review processes, in particular those relating to the realization of the right to development, recognizing that the realization of the right to development is critical to achieving the objectives, goals and targets set in those outcome documents;

14. *Also reaffirms* that the realization of the right to development is essential to the implementation of the Vienna Declaration and Programme of Action, which regards all human rights as universal, indivisible, interdependent and interrelated, places the human person at the centre of development and recognizes that, while development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgement of internationally recognized human rights;

15. *Stresses* that the primary responsibility for the promotion and protection of all human rights lies with the State, and reaffirms that States have the primary responsibility for their own economic and social development and that the role of national policies and development strategies cannot be overemphasized;

16. *Reaffirms* the primary responsibility of States to create national and international conditions favourable to the realization of the right to development, as well as their commitment to cooperate with each other to that end;

17. *Also reaffirms* the need for an international environment that is conducive to the realization of the right to development;

18. *Stresses* the need to strive for greater acceptance, operationalization and realization of the right to development at the international and national levels, and

calls upon States to institute the measures required for the implementation of the right to development as an integral part of fundamental human rights;

19. *Emphasizes* the critical importance of identifying and analysing obstacles impeding the full realization of the right to development at both the national and the international levels;

20. *Affirms* that, while globalization offers both opportunities and challenges, the process of globalization remains deficient in achieving the objectives of integrating all countries into a globalized world, and stresses the need for policies and measures at the national and global levels to respond to the challenges and opportunities of globalization if this process is to be made fully inclusive and equitable;

21. *Recognizes* that, despite continuous efforts on the part of the international community, the gap between developed and developing countries remains unacceptably wide, that most of the developing countries continue to face difficulties in participating in the globalization process and that many risk being marginalized and effectively excluded from its benefits;

22. *Expresses its deep concern* in this regard at the negative impact on the realization of the right to development owing to the further aggravation of the economic and social situation, in particular of developing countries, as the result of the ongoing international energy, food and financial crises;

23. *Underlines* the fact that the international community is far from meeting the target set in the United Nations Millennium Declaration[4] of halving the number of people living in poverty by 2015, reaffirms the commitment made to meet that target, and emphasizes the principle of international cooperation, including partnership and commitment, between developed and developing countries towards achieving the goal;

24. *Urges* developed countries that have not yet done so to make concrete efforts towards meeting the targets of 0.7 per cent of their gross national product for official development assistance to developing countries and 0.15 to 0.2 per cent of their gross national product to least developed countries, and encourages developing countries to build on the progress achieved in ensuring that official development assistance is used effectively to help to meet development goals and targets;

25. *Recognizes* the need to address market access for developing countries, including in agriculture, services and non-agricultural products, in particular those of interest to developing countries;

26. *Calls for* the implementation of a desirable pace of meaningful trade liberalization, including in areas under negotiation in the World Trade Organization; implementation of commitments on implementation-related issues and concerns; review of special and differential treatment provisions, with a view to strengthening them and making them more precise, effective and operational; avoidance of new forms of protectionism; and capacity-building and technical assistance for developing countries as important issues in making progress towards the effective implementation of the right to development;

27. *Recognizes* the important link between the international economic, commercial and financial spheres and the realization of the right to development, stresses, in this regard, the need for good governance and broadening the base of

decision-making at the international level on issues of development concern and the need to fill organizational gaps, as well as strengthen the United Nations system and other multilateral institutions, and also stresses the need to broaden and strengthen the participation of developing countries and countries with economies in transition in international economic decision-making and norm-setting;

28. *Also recognizes* that good governance and the rule of law at the national level assist all States in the promotion and protection of human rights, including the right to development, and agrees on the value of the ongoing efforts being made by States to identify and strengthen good governance practices, including transparent, responsible, accountable and participatory government, that are responsive and appropriate to their needs and aspirations, including in the context of agreed partnership approaches to development, capacity-building and technical assistance;

29. *Further recognizes* the important role and the rights of women and the application of a gender perspective as a cross-cutting issue in the process of realizing the right to development, and notes in particular the positive relationship between women's education and their equal participation in the civil, cultural, economic, political and social activities of the community and the promotion of the right to development;

30. *Stresses* the need for the integration of the rights of children, girls and boys alike, in all policies and programmes, and for ensuring the promotion and protection of those rights, especially in areas relating to health, education and the full development of their capacities;

31. *Welcomes* the Political Declaration on HIV/AIDS adopted at the High-level Meeting of the General Assembly on 2 June 2006,[13] stresses that further and additional measures must be taken at the national and international levels to fight HIV/AIDS and other communicable diseases, taking into account ongoing efforts and programmes, and reiterates the need for international assistance in this regard;

32. *Also welcomes* the entry into force of the Convention on the Rights of Persons with Disabilities[14] on 3 May 2008;

33. *Stresses its commitment* to indigenous peoples in the process of realization of the right to development, and reaffirms the commitment to promote their rights in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security in accordance with recognized international human rights obligations and taking into account, as appropriate, the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly in its resolution 61/295 of 13 September 2007;

34. *Recognizes* the need for strong partnerships with civil society organizations and the private sector in pursuit of poverty eradication and development, as well as for corporate social responsibility;

35. *Emphasizes* the urgent need for taking concrete and effective measures to prevent, combat and criminalize all forms of corruption at all levels, to prevent, detect and deter in a more effective manner international transfers of illicitly acquired assets and to strengthen international cooperation in asset recovery

[13] Resolution 60/262, annex.

[14] Resolution 61/106, annex I.

consistent with the principles of the United Nations Convention against Corruption,[15] particularly chapter V thereof, stresses the importance of a genuine political commitment on the part of all Governments through a firm legal framework, and in this context urges States to sign and ratify as soon as possible, and States parties to implement effectively, the Convention;

36. *Also emphasizes* the need to strengthen further the activities of the Office of the United Nations High Commissioner for Human Rights in the promotion and realization of the right to development, including ensuring effective use of the financial and human resources necessary to fulfil its mandate, and calls upon the Secretary-General to provide the Office of the High Commissioner with the necessary resources;

37. *Reaffirms* the request to the High Commissioner, in mainstreaming the right to development, to undertake effectively activities aimed at strengthening the global partnership for development between Member States, development agencies and the international development, financial and trade institutions, and to reflect those activities in detail in her next report to the Human Rights Council;

38. *Calls upon* the United Nations agencies, funds and programmes, as well as the specialized agencies, to mainstream the right to development in their operational programmes and objectives, and stresses the need for the international financial and multilateral trading systems to mainstream the right to development in their policies and objectives;

39. *Requests* the Secretary-General to bring the present resolution to the attention of Member States, United Nations organs and bodies, specialized agencies, funds and programmes, international development and financial institutions, in particular the Bretton Woods institutions, and non-governmental organizations;

40. *Also requests* the Secretary-General to submit a report to the General Assembly at its sixty-fourth session and an interim report to the Human Rights Council on the implementation of the present resolution, including efforts undertaken at the national, regional and international levels in the promotion and realization of the right to development, and invites the Chairperson of the Working Group on the Right to Development to present a verbal update to the Assembly at its sixty-fourth session.

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[15] United Nations, *Treaty Series*, vol. 2349, No. 42146.

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Agenda item 64 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Cuba:* draft resolution

Human rights and unilateral coercive measures

The General Assembly,

Recalling all its previous resolutions on this subject, the most recent of which was resolution 62/162 of 18 December 2007, Human Rights Council resolution 9/4 of 24 September 2008,[1] and previous resolutions of the Council and the Commission on Human Rights,

Reaffirming the pertinent principles and provisions contained in the Charter of Economic Rights and Duties of States proclaimed by the General Assembly in its resolution 3281 (XXIX) of 12 December 1974, in particular article 32 thereof, in which it declared that no State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights,

Taking note of the report of the Secretary-General[2] submitted pursuant to Commission on Human Rights resolution 1999/21 of 23 April 1999,[3] and the reports of the Secretary-General on the implementation of resolutions 52/120 of 12 December 1997[4] and 55/110 of 4 December 2000,[5]

* On behalf of States Members of the United Nations that are members of the Movement of Non-Aligned Countries.

[1] See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53A* (A/63/53 and Add.1), chap. I.

[2] A/63/272.

[3] See *Official Records of the Economic and Social Council, 1999, Supplement No. 3* (E/1999/23), chap. II, sect. A.

[4] A/53/293 and Add.1.

[5] A/56/207 and Add.1.

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Stressing that unilateral coercive measures and legislation are contrary to international law, international humanitarian law, the Charter of the United Nations and the norms and principles governing peaceful relations among States,

Recognizing the universal, indivisible, interdependent and interrelated character of all human rights, and in this regard reaffirming the right to development as an integral part of all human rights,

Recalling the final document of the Fourteenth Conference of Heads of State or Government of Non-Aligned Countries, held in Havana on 15 and 16 September 2006,[6] and the final document of the Fifteenth Ministerial Conference of the Non-Aligned Movement, held in Teheran from 27 to 30 July 2008,[7] in which the Ministers of the Movement of Non-Aligned Countries agreed to oppose and condemn those measures or laws and their continued application, persevere with efforts to effectively reverse them and urge other States to do likewise, as called for by the General Assembly and other United Nations organs, and to request States applying those measures or laws to revoke them fully and immediately,

Recalling also that at the World Conference on Human Rights, held in Vienna from 14 to 25 June 1993, States were called upon to refrain from any unilateral coercive measure not in accordance with international law and the Charter that creates obstacles to trade relations among States and impedes the full realization of all human rights, and also severely threatens the freedom of trade,[8]

Bearing in mind all the references to this question in the Copenhagen Declaration on Social Development adopted by the World Summit for Social Development on 12 March 1995,[9] the Beijing Declaration and Platform for Action adopted by the Fourth World Conference on Women on 15 September 1995,[10] the Istanbul Declaration on Human Settlements and the Habitat Agenda adopted by the second United Nations Conference on Human Settlements (Habitat II) on 14 June 1996,[11] and their five-year reviews,

Expressing its concern about the negative impact of unilateral coercive measures on international relations, trade, investment and cooperation,

Expressing its grave concern that, in some countries, the situation of children is adversely affected by unilateral coercive measures not in accordance with international law and the Charter that create obstacles to trade relations among States, impede the full realization of social and economic development and hinder the well-being of the population in the affected countries, with particular consequences for women and children, including adolescents,

Deeply concerned that, despite the recommendations adopted on this question by the General Assembly, the Human Rights Council, the Commission on Human Rights and recent major United Nations conferences, and contrary to general

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[6] A/61/472-S/2006/780, annex I.

[7] A/62/929, annex I.

[8] See A/CONF.157/24 (Part I), chap. III.

[9] *Report of the World Summit for Social Development, Copenhagen, 6-12 March 1995* (United Nations publication, Sales No. E.96.IV.8), chap. I, resolution 1, annex I.

[10] *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annexes I and II.

[11] *Report of the United Nations Conference on Human Settlements (Habitat II), Istanbul, 3-14 June 1996* (United Nations publication, Sales No. E.97.IV.6), chap. I, resolution 1, annexes I and II.

international law and the Charter, unilateral coercive measures continue to be promulgated and implemented with all their negative implications for the social humanitarian activities and economic and social development of developing countries, including their extraterritorial effects, thereby creating additional obstacles to the full enjoyment of all human rights by peoples and individuals under the jurisdiction of other States,

Bearing in mind all the extraterritorial effects of any unilateral legislative, administrative and economic measures, policies and practices of a coercive nature against the development process and the enhancement of human rights in developing countries, which create obstacles to the full realization of all human rights,

Reaffirming that unilateral coercive measures are a major obstacle to the implementation of the Declaration on the Right to Development,[12]

Recalling article 1, paragraph 2, common to the International Covenant on Civil and Political Rights[13] and the International Covenant on Economic, Social and Cultural Rights,[13] which provides, inter alia, that in no case may a people be deprived of its own means of subsistence,

Noting the continuing efforts of the open-ended Working Group on the Right to Development of the Human Rights Council, and reaffirming in particular its criteria, according to which unilateral coercive measures are one of the obstacles to the implementation of the Declaration on the Right to Development,

1. *Urges* all States to stop adopting or implementing any unilateral measures not in accordance with international law, the Charter of the United Nations and the norms and principles governing peaceful relations among States, in particular those of a coercive nature with all their extraterritorial effects, which create obstacles to trade relations among States, thus impeding the full realization of the rights set forth in the Universal Declaration of Human Rights[14] and other international human rights instruments, in particular the right of individuals and peoples to development;

2. *Also urges* all States not to adopt any unilateral measures not in accordance with international law and the Charter that impede the full achievement of economic and social development by the population of the affected countries, in particular children and women, that hinder their well-being and that create obstacles to the full enjoyment of their human rights, including the right of everyone to a standard of living adequate for his or her health and well-being and his or her right to food, medical care and the necessary social services, as well as to ensure that food and medicine are not used as tools for political pressure;

3. *Strongly objects* to the extraterritorial nature of those measures which, in addition, threaten the sovereignty of States, and in this context calls upon all Member States to neither recognize those measures nor to apply them, as well as to take administrative or legislative measures, as appropriate, to counteract the extraterritorial applications or effects of unilateral coercive measures;

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[12] Resolution 41/128, annex.

[13] See resolution 2200 A (XXI), annex.

[14] Resolution 217 A (III).

4. *Condemns* the continued unilateral application and enforcement by certain Powers of unilateral coercive measures, and rejects those measures with all their extraterritorial effects as being tools for political or economic pressure against any country, in particular against developing countries, adopted with a view to preventing those countries from exercising their right to decide, of their own free will, their own political, economic and social systems, and because of the negative effects of those measures on the realization of all the human rights of vast sectors of their populations, in particular children, women and the elderly;

5. *Reaffirms* that essential goods such as food and medicines should not be used as tools for political coercion and that under no circumstances should people be deprived of their own means of subsistence and development;

6. *Calls upon* Member States that have initiated such measures to abide by the principles of international law, the Charter, the declarations of the United Nations and world conferences and relevant resolutions and to commit themselves to their obligations and responsibilities arising from the international human rights instruments to which they are party by revoking such measures at the earliest possible time;

7. *Reaffirms*, in this context, the right of all peoples to self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development;

8. *Recalls* that, according to the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, contained in the annex to General Assembly resolution 2625 (XXV) of 24 October 1970, and the relevant principles and provisions contained in the Charter of Economic Rights and Duties of States proclaimed by the Assembly in its resolution 3281 (XXIX), in particular article 32 thereof, no State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind;

9. *Rejects* all attempts to introduce unilateral coercive measures, and urges the Human Rights Council to take fully into account the negative impact of those measures, including through the enactment of national laws and their extraterritorial application which are not in conformity with international law, in its task concerning the implementation of the right to development;

10. *Requests* the United Nations High Commissioner for Human Rights, in discharging her functions relating to the promotion, realization and protection of the right to development and bearing in mind the continuing impact of unilateral coercive measures on the population of developing countries, to give priority to the present resolution in her annual report to the General Assembly;

11. *Underlines* that unilateral coercive measures are one of the major obstacles to the implementation of the Declaration on the Right to Development,[12] and in this regard calls upon all States to avoid the unilateral imposition of economic coercive measures and the extraterritorial application of domestic laws which run counter to the principles of free trade and hamper the development of developing countries, as recognized by the Intergovernmental Group of Experts on the Right to Development;

12. *Recognizes* that in the Declaration of Principles adopted at the first phase of the World Summit on the Information Society, held in Geneva from 10 to 12 December 2003,[15] States were strongly urged to avoid and refrain from any unilateral measure in building the information society;

13. *Supports* the invitation of the Human Rights Council to all special rapporteurs and existing thematic mechanisms of the Council in the field of economic, social and cultural rights to pay due attention, within the scope of their respective mandates, to the negative impact and consequences of unilateral coercive measures;

14. *Requests* the Secretary-General to bring the present resolution to the attention of all Member States, to continue to collect their views and information on the implications and negative effects of unilateral coercive measures on their populations and to submit an analytical report thereon to the General Assembly at its sixty-fourth session, while reiterating once again the need to highlight the practical and preventive measures in this respect;

15. *Decides* to examine the question on a priority basis at its sixty-fourth session under the sub-item entitled "Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms".

[15] A/C.2/59/3, annex, chap. I, sect. A.

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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Cuba:* draft resolution

Enhancement of international cooperation in the field of human rights

The General Assembly,

Reaffirming its commitment to promoting international cooperation, as set forth in the Charter of the United Nations, in particular Article 1, paragraph 3, as well as relevant provisions of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,[1] for enhancing genuine cooperation among Member States in the field of human rights,

Recalling its adoption of the United Nations Millennium Declaration on 8 September 2000[2] and of its resolution 62/160 of 18 December 2007, Human Rights Council resolution 7/3 of 27 March 2008 and all resolutions of the Commission on Human Rights on the enhancement of international cooperation in the field of human rights,

Recalling also the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held at Durban, South Africa, from 31 August to 8 September 2001, and its role in the enhancement of international cooperation in the field of human rights,

Recognizing that the enhancement of international cooperation in the field of human rights is essential for the full achievement of the purposes of the United Nations, including the effective promotion and protection of all human rights,

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* On behalf of the States Members of the United Nations that are members of the Movement of Non-Aligned Countries.

[1] A/CONF.157/24 (Part I), chap. III.

[2] See resolution 55/2.

08-58047 (E) 051108

Recognizing also that the promotion and protection of human rights should be based on the principle of cooperation and genuine dialogue and aimed at strengthening the capacity of Member States to comply with their human rights obligations for the benefit of all human beings,

Reaffirming that dialogue among religions, cultures and civilizations in the field of human rights could contribute greatly to the enhancement of international cooperation in this field,

Emphasizing the need for further progress in the promotion and encouragement of respect for human rights and fundamental freedoms through, inter alia, international cooperation,

Underlining the fact that mutual understanding, dialogue, cooperation, transparency and confidence-building are important elements in all activities for the promotion and protection of human rights,

Recalling the adoption of resolution 2000/22 of 18 August 2000, on the promotion of dialogue on human rights issues, by the Subcommission on the Promotion and Protection of Human Rights at its fifty-second session,[3]

1. *Reaffirms* that it is one of the purposes of the United Nations and the responsibility of all Member States to promote, protect and encourage respect for human rights and fundamental freedoms through, inter alia, international cooperation;

2. *Recognizes* that, in addition to their separate responsibilities to their individual societies, States have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level;

3. *Reaffirms* that dialogue among cultures and civilizations facilitates the promotion of a culture of tolerance and respect for diversity, and welcomes in this regard the holding of conferences and meetings at the national, regional and international levels on dialogue among civilizations;

4. *Urges* all actors on the international scene to build an international order based on inclusion, justice, equality and equity, human dignity, mutual understanding and promotion of and respect for cultural diversity and universal human rights, and to reject all doctrines of exclusion based on racism, racial discrimination, xenophobia and related intolerance;

5. *Reaffirms* the importance of the enhancement of international cooperation for the promotion and protection of human rights and for the achievement of the objectives of the fight against racism, racial discrimination, xenophobia and related intolerance;

6. *Considers* that international cooperation in the field of human rights, in conformity with the purposes and principles set out in the Charter of the United Nations and international law, should make an effective and practical contribution to the urgent task of preventing violations of human rights and fundamental freedoms;

7. *Reaffirms* that the promotion, protection and full realization of all human rights and fundamental freedoms should be guided by the principles of universality, non-selectivity, objectivity and transparency, as well as by the elimination of double

[3] See E/CN.4/2001/2-E/CN.4/Sub.2/2000/46, chap. II, sect. A.

standards and politicization, in a manner consistent with the purposes and principles set out in the Charter;

8. *Calls upon* Member States, specialized agencies and intergovernmental organizations to continue to carry out a constructive dialogue and consultations for the enhancement of understanding and the promotion and protection of all human rights and fundamental freedoms, and encourages non-governmental organizations to contribute actively to this endeavour;

9. *Invites* States and relevant United Nations human rights mechanisms and procedures to continue to pay attention to the importance of mutual cooperation, understanding and dialogue in ensuring the promotion and protection of all human rights;

10. *Requests* the Secretary-General, in collaboration with the United Nations High Commissioner for Human Rights, to consult States and intergovernmental and non-governmental organizations on ways and means to enhance international cooperation and dialogue in the United Nations human rights machinery, including the Human Rights Council;

11. *Decides* to continue its consideration of the question at its sixty-fourth session.

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Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Albania, Andorra, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation of human rights in Myanmar

The General Assembly,

Guided by the Charter of the United Nations and the Universal Declaration of Human Rights,[1] and recalling the International Covenants on Human Rights[2] and other relevant human rights instruments,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and the duty to fulfil the obligations they have undertaken under the various international instruments in this field,

Reaffirming also its previous resolutions on the situation of human rights in Myanmar, the most recent of which is resolution 62/222 of 22 December 2007, those of the Commission on Human Rights and Human Rights Council resolutions S-5/1 of 2 October 2007,[3] 6/33 of 14 December 2007,[4] 7/31 of 28 March 2008[5] and 8/14 of 18 June 2008,[6]

[1] Resolution 217 A (III).

[2] Resolution 2200 A (XXI), annex.

[3] See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53* (A/63/53), chap. IV.

[4] Ibid., chap. I.

[5] Ibid., chap. II.

[6] Ibid., chap. III.

08-58053 (E) 051108

Welcoming the presidential statements adopted by the Security Council on 11 October 2007,[7]

Welcoming the reports of the Special Rapporteur on the situation of human rights in Myanmar[8] and his oral presentations, as well as the agreement by the Government of Myanmar to the visit of the Special Rapporteur, for the first time in four years, in November 2007 and then again in August 2008 soon after the appointment of the new Special Rapporteur, and encouraging the continuation of such visits, welcoming also the report of the Secretary-General[9] and his designation of a Special Adviser to continue to pursue the mandate of good offices, and affirming its full support for this mission,

Taking note of the cooperation of the Government of Myanmar with the international community, including the United Nations, in delivering humanitarian assistance to the people affected by Cyclone Nargis despite its initial denial of access, which resulted in widespread suffering and increased the risk of loss of lives, and calling upon the Government of Myanmar, in the interest of the people of Myanmar, to cooperate on humanitarian access in all other areas of the country where the United Nations, other international humanitarian organizations and their partners continue to experience difficulties in delivering assistance to persons in need,

Calling upon the Government of Myanmar to cooperate with the international community in order to achieve concrete progress in areas such as human rights and political processes leading to a genuine democratic transition through concrete measures,

Deeply concerned that the urgent calls contained in the above-mentioned resolutions, as well as the statements of other United Nations bodies concerning the situation of human rights in Myanmar, have not been met, and emphasizing that, without significant progress towards meeting these calls of the international community, the situation of human rights in Myanmar will continue to deteriorate,

1. *Strongly condemns* the ongoing systematic violations of civil, political, economic, social and cultural rights of the people of Myanmar, as described in resolution 62/222 and the previous resolutions of the General Assembly, the Commission on Human Rights and the Human Rights Council;

2. *Expresses grave concern* in particular at:

(a) The continuing practice of enforced disappearances, use of violence against peaceful demonstrators, rape and other forms of sexual violence, torture and cruel, inhumane or degrading treatment, arbitrary detentions, including those that resulted from the repression of peaceful protests in 2007, the extension, once again, of the house arrest of the General Secretary of the National League for Democracy, Aung San Suu Kyi, as well as the high and increasing number of political prisoners, including other political leaders, persons belonging to ethnic nationalities and human rights defenders, despite the recent release of a small number of them, including U Win Tin;

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[7] S/PRST/2007/37 and S/PRST/2008/13; see *Resolutions and Decisions of the Security Council, 1 August 2007-31 July 2008*.

[8] See A/63/341 and A/HRC/8/12.

[9] A/63/356.

(b) The continuing imposition of severe restrictions on the exercise of fundamental freedoms such as the freedom of movement, expression, association and assembly, in particular the lack of an independent judiciary and the use of censorship;

(c) The major and repeated violations of international humanitarian law committed against civilians;

(d) The continuing discrimination and violations suffered by persons belonging to ethnic nationalities of Myanmar, and attacks by military forces and non-State armed groups on villages in Karen State and other ethnic States in Myanmar, leading to extensive forced displacements and serious violations and other abuses of the human rights of the affected populations;

(e) The absence of effective and genuine participation of the representatives of the National League for Democracy and other political parties and some ethnic groups in a genuine process of dialogue, national reconciliation and transition to democracy; the fact that the country's political processes are not transparent, inclusive, free and fair, and that the procedures established for the drafting of the constitution resulted in the de facto exclusion of the opposition from the process; and the decision of the Government of Myanmar to proceed with the constitutional referendum in an atmosphere of intimidation and without regard to international standards of free and fair elections at a time of dire humanitarian need;

(f) Forced labour and forced displacement, as well as the continuous deterioration of the living conditions and the increase of poverty affecting a significant part of the population throughout the country, with serious consequences for the enjoyment of their economic, social and cultural rights;

(g) The climate of impunity due to the fact that perpetrators of human rights violations and abuses are not brought to justice, thereby denying the victims any effective remedy;

3. *Welcomes*:

(a) The visits to Myanmar of the Special Adviser to the Secretary-General, and expresses appreciation for the work of the good offices mission of the Secretary-General but notes only limited cooperation by the Government of Myanmar with this mission in 2008;

(b) The progress report presented by the Government of Myanmar and the steps taken so far, even though limited, in implementing the supplementary understanding between the International Labour Organization and the Government of Myanmar signed in 2007 and designed to provide a mechanism to enable victims of forced labour to seek redress;

(c) The submission by the Government of Myanmar of its third periodic report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women;

(d) The progress reported on the work conducted by the Government of Myanmar and international humanitarian entities on HIV/AIDS and avian influenza;

(e) The establishment of the Group of Friends of the Secretary-General on Myanmar, calls upon the Group to facilitate the work of the good offices mission of the Secretary-General, including by assisting with the preparation of his visits and by urging the Government of Myanmar to cooperate fully with the mission, and

encourages the Group to do its utmost to encourage the Government to respect human rights and allow a peaceful transition to democracy;

(f) The role played by countries neighbouring Myanmar and members of the Association of Southeast Asian Nations in support of the good offices mission of the Secretary-General, and encourages them to intensify their efforts in this regard;

(g) The constructive role played by the Association of Southeast Asian Nations and the United Nations in working with the Government of Myanmar to respond to the humanitarian crisis caused by Cyclone Nargis;

4. *Strongly calls upon* the Government of Myanmar:

(a) To ensure full respect for all human rights and fundamental freedoms, including by ending restrictions on these freedoms that are incompatible with the obligations of the Government under international human rights law, and to protect the inhabitants of the country;

(b) To allow a full, transparent, effective, impartial and independent investigation, primarily by the Special Rapporteur, into all reports of human rights violations, including enforced disappearances, use of violence against peaceful demonstrators, arbitrary detentions, torture and cruel, inhumane or degrading treatment, rape and other forms of sexual violence, forced labour and forced displacement, and to bring those responsible to justice in order to end impunity for violations of human rights;

(c) To reveal the whereabouts of persons who are detained or missing or who have been subjected to enforced disappearance;

(d) To seize the opportunity of the good offices of the Secretary-General and to cooperate fully with the good offices mission in the fulfilment of its responsibilities as mandated by the General Assembly, namely, the release of political prisoners and the commencement of a substantive dialogue on democratic transition; such cooperation shall include facilitating the visits of the Special Adviser to the country, allowing him unrestricted access to all relevant parties, including the highest level of leadership within the regime, human rights defenders, representatives of ethnic minorities, student leaders and other opposition groups, and engaging in a genuine and fruitful process aiming at achieving tangible progress towards democratic reform and the full respect for human rights;

(e) To fully implement previous recommendations of the Special Rapporteur, the General Assembly, the Human Rights Council, the Commission on Human Rights, the International Labour Organization and other United Nations bodies;

(f) To desist from further politically motivated arrests and to release without delay and without conditions those who have been arbitrarily arrested and detained, as well as all political prisoners, including Aung San Suu Kyi, other leaders of the National League for Democracy, 88 Generation group leaders, ethnic group leaders and all those detained as the result of the protest which took place in September 2007;

(g) To lift all restraints on the peaceful political activity of all persons by, inter alia, guaranteeing freedom of peaceful assembly and association and freedom of opinion and expression, including for free and independent media, and to ensure unhindered access to media information for the people of Myanmar;

(h) To cooperate fully with the Special Rapporteur, including by granting him full, free and unhindered access in his upcoming visits to Myanmar to monitor the implementation of Human Rights Council and General Assembly resolutions, and to ensure that no person cooperating with the Special Rapporteur or any international organization is subjected to any form of intimidation, harassment or punishment;

(i) To ensure timely, safe, full and unhindered access to all parts of Myanmar, including conflict and border areas, for the United Nations, international humanitarian organizations and their partners and to cooperate fully with those actors to ensure that humanitarian assistance is delivered to all persons in need throughout the country;

(j) To put an immediate end to the continuing recruitment and use of child soldiers in violation of international law, by all parties, to intensify measures to ensure the protection of children from armed conflict and to pursue its collaboration with the Special Representative of the Secretary-General for Children and Armed Conflict;

(k) To take urgent measures to put an end to violations of international human rights and humanitarian law, including the targeting of civilians by military operations, rape and other forms of sexual violence persistently carried out by members of the armed forces, and the targeting of persons belonging to particular ethnic groups;

(l) To end the systematic forced displacement of large numbers of persons within their country and the violence contributing to refugee flows into neighbouring countries, and to respect ceasefire agreements;

5. *Calls upon* the Government of Myanmar:

(a) To permit all political representatives and representatives of ethnic nationalities to participate fully in the political transition process without restrictions and, to that end, to resume without further delay a dialogue with all political actors, including the National League for Democracy and representatives of ethnic nationalities;

(b) To pursue, through dialogue and peaceful means, the immediate suspension and permanent end of conflict with all ethnic nationalities in Myanmar and to allow the full participation of representatives of all political parties and representatives of ethnic nationalities in an inclusive and credible process of national reconciliation, democratization and the establishment of the rule of law;

(c) To allow human rights defenders to pursue their activities unhindered and to ensure their safety, security and freedom of movement in that pursuit;

(d) To refrain from imposing restrictions on access to and flow of information from the people of Myanmar, including through the openly available and accessible use of Internet and mobile telephone services;

(e) To fulfil its obligations to restore the independence of the judiciary and due process of law, the current state of which is not in compliance with international human rights law, as well as to ensure that discipline in prisons does not amount to torture or cruel, inhuman or degrading treatment or punishment and that conditions of detention otherwise meet international standards;

(f) To engage in a dialogue with the Office of the United Nations High Commissioner for Human Rights with a view to ensuring full respect for all human rights and fundamental freedoms;

(g) To engage more actively to eliminate the use of forced labour and to increase its efforts with the International Labour Organization towards the effective implementation of the national mechanism established to receive complaints of forced labour, including allowing the International Labour Organization to distribute informational material in Myanmar on that mechanism;

(h) To resume its humanitarian dialogue with the International Committee of the Red Cross and allow it to carry out its activities according to its mandate, in particular by granting access to persons detained and to areas of internal armed conflict;

6. *Requests* the Secretary-General:

(a) To continue to provide his good offices and to pursue his discussions on the situation of human rights, the transition to democracy and the national reconciliation process with the Government and the people of Myanmar, including democracy and human rights groups and all relevant parties, and to offer technical assistance to the Government in this regard;

(b) To give all necessary assistance to enable the Special Adviser and the Special Rapporteur to discharge their mandates fully and effectively and in a coordinated manner;

(c) To report to the General Assembly at its sixty-fourth session as well as to the Human Rights Council on the progress made in the implementation of the present resolution;

7. *Decides* to continue the consideration of the question at its sixty-fourth session, on the basis of the report of the Secretary-General and the interim report of the Special Rapporteur.

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Sixty-third session
Third Committee
Agenda item 64 (b)
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Andorra, Armenia, Austria, Belgium, Bolivia, Bulgaria, Central African Republic, Chile, Côte d'Ivoire, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Lithuania, Luxembourg, Madagascar, Malta, Monaco, Netherlands, New Zealand, Norway, Paraguay, Peru, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Ukraine and United Kingdom of Great Britain and Northern Ireland: draft resolution

Elimination of all forms of intolerance and of discrimination based on religion or belief

The General Assembly,

Recalling its resolution 36/55 of 25 November 1981, by which it proclaimed the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,

Recalling also article 18 of the International Covenant on Civil and Political Rights,[1] article 18 of the Universal Declaration of Human Rights[2] and other relevant human rights provisions,

Recalling further its previous resolutions on the elimination of all forms of intolerance and of discrimination based on religion or belief, including resolution 62/157 of 18 December 2007, as well as Human Rights Council resolution 6/37 of

[1] See resolution 2200 A (XXI), annex.
[2] Resolution 217 A (III).

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14 December 2007,[3] in which the Council, inter alia, extended the mandate of the Special Rapporteur on freedom of religion or belief,[4]

Reaffirming the recognition by the 1993 World Conference on Human Rights that all human rights are universal, indivisible, interdependent and interrelated, and its call upon all Governments to take all appropriate measures in compliance with their international obligations and with due regard to their respective legal systems to counter intolerance and related violence based on religion or belief, including practices of discrimination against women and the desecration of religious sites, recognizing that every individual has the right to freedom of thought, conscience, expression and religion,[5]

Considering that religion or belief, for those who profess either, is one of the fundamental elements in their conception of life and that freedom of religion or belief should be fully respected and guaranteed,

Considering also that the disregard for and infringement of human rights and fundamental freedoms, in particular the right to freedom of thought, conscience and religion or belief, have brought, directly or indirectly, wars and great suffering to humankind,

Recognizing the important work carried out by the Human Rights Committee in providing guidance with respect to the scope of the freedom of religion or belief,

Resolved to speed up the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,

Believing that further intensified efforts are therefore required to promote and protect the right to freedom of thought, conscience and religion or belief and to eliminate all forms of hatred, intolerance and discrimination based on religion or belief, as also noted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,

Reaffirming that one's freedom of religion or belief includes the freedom to have or to adopt a religion or whatever belief of his or her choice, and the freedom, either individually or in community with others and in public or private, to manifest that religion or belief in worship, observance, practice and teaching,

Reaffirming also that freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others and emphasizing that any such limitations must be non-discriminatory and must pursue a legitimate aim and be proportionate to this aim,

Concerned at attacks on religious places, sites and shrines, including any deliberate destruction of relics and monuments,

Seriously concerned at any abuse of registration procedures and at the resort to discriminatory registration procedures as a means to limit the right to freedom of religion or belief of members of certain religious communities, at the limitations placed on religious materials and at the obstacles placed in the way of construction

[3] See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53* (A/63/53), chap. I, sect. A.

[4] Ibid., para. 18.

[5] See A/CONF.157/24 (Part I), chap. III, sect. II, para. 22.

of places of worship inconsistent with the exercise of the right to freedom of religion or belief,

Recognizing that a formal or legal distinction at national level between different kinds of religions or beliefs may constitute discrimination and may impinge on the enjoyment of the freedom of religion or belief,

Recognizing also the importance of interreligious and intrareligious dialogue and the role of religious and other non-governmental organizations in promoting tolerance in matters relating to religion or belief, and welcoming different initiatives in this regard, including the Alliance of Civilizations and the programmes led by the United Nations Educational, Scientific and Cultural Organization,

Convinced of the need to address the rise in all parts of the world of religious extremism that affects the rights of individuals, the situations where violence and discrimination that affect many women as well as individuals from other vulnerable groups are carried out in the name of religion or belief or in accordance with cultural and traditional practices, and the abuse of religion or belief for ends inconsistent with the Charter of the United Nations, as well as other relevant instruments of the United Nations,

Emphasizing that States, regional organizations, non-governmental organizations, religious bodies and the media have an important role to play in promoting tolerance, respect and freedom of religion or belief,

Underlining the importance of education in the promotion of tolerance, which involves the acceptance by the public of, and its respect for, diversity, including with regard to religious expression, and underlining also the fact that education, in particular at school, should contribute in a meaningful way to promoting tolerance and the elimination of discrimination based on religion or belief,

1. *Condemns* all forms of intolerance and of discrimination based on religion or belief, as well as violations of freedom of thought, conscience and religion or belief;

2. *Stresses* that the right to freedom of thought, conscience and religion applies equally to all people, regardless of their religions or beliefs, and without any discrimination as to their equal protection by the law;

3. *Emphasizes* that, as underlined by the Human Rights Committee, restrictions on the freedom to manifest religion or belief are permitted only if limitations are prescribed by law, are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others, and are applied in a manner that does not vitiate the right to freedom of thought, conscience and religion;

4. *Expresses concern* over the persistence of institutionalized social intolerance and discrimination practised against many in the name of religion or belief;

5. *Recalls* that legal procedures pertaining to religious or belief-based groups and places of worship are not a prerequisite for the exercise of the right to manifest one's religion or belief;

6. *Emphasizes* that the conduct of such procedures, as described in paragraph 5 above, at the national or local level, and as and when legally required,

should be non-discriminatory in order to contribute to the effective protection of the right of all persons to practise their religion or belief either individually or in community with others and in public or private;

7. *Recognizes with concern* the situation of persons in vulnerable situations, including persons deprived of their liberty, refugees, asylum-seekers and internally displaced persons, children, persons belonging to minorities and migrants, as regards their ability to freely exercise their right to freedom of religion or belief;

8. *Urges* States to step up their efforts to eliminate intolerance and discrimination based on religion or belief, and to this end,

(a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practise freely one's religion, including the right to change one's religion or belief, is violated;

(b) To ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief and that no one is subjected to torture or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights;

(c) To ensure that no one is discriminated against on the basis of his or her religion or belief when accessing, inter alia, education, medical care, employment, humanitarian assistance or social benefits;

(d) To review, whenever relevant, existing registration practices in order to ensure that such practices do not limit the right of any person to manifest his or her religion or belief, alone or in community with others and in public or in private;

(e) To ensure that no official documents are withheld for reasons grounded in a person's religion or belief and that if religious affiliation is mentioned in any such documents, the individual has the right to refrain from disclosing this type of information, or to indicate "other religion" or "no religion";

(f) To refrain from forcing someone who wishes to fill a public post to take an oath swearing his or her allegiance to any religion against his will;

(g) To provide, in the case where official recognition of religious marriages exists, for the alternative of a civil registration of marriages;

(h) To ensure the right of all persons to worship or assemble in connection with a religion or belief and their right to establish and maintain places for these purposes and the right of all persons to write, issue and disseminate relevant publications in these areas;

(i) To ensure, in particular, that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom of all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected;

(j) To exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights law, to ensure that religious places, sites, shrines and symbols are fully respected and protected and to take

additional measures in cases where they are vulnerable to desecration and destruction;

(k) To ensure that all public officials and civil servants, including members of law enforcement bodies, the military and educators, in the course of fulfilling their official duties, respect all religions or beliefs and do not discriminate for reasons based on religion or belief, and that all necessary and appropriate education or training is provided;

9. *Recognizes with deep concern* the overall rise in instances of intolerance and violence directed against members of many religious and other communities in various parts of the world, including cases motivated by Islamophobia, anti-Semitism and Christianophobia;

10. *Condemns* any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence, whether it involves the use of print, audio-visual or electronic media or any other means;

11. *Emphasizes* that respect for freedom of opinion and expression is of crucial importance to efforts to eliminate all forms of intolerance and of discrimination based on religion or belief;

12. *Urges* States to step up their efforts to eliminate intolerance and discrimination based on religion or belief, notably by:

(a) Taking all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, discrimination and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to members of religious minorities in all parts of the world;

(b) Devoting particular attention to practices that violate the human rights of women and discriminate against women, including in the exercise of their right to freedom of thought, conscience and religion or belief;

(c) Ensuring that any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence is prohibited by law;

(d) Promoting and encouraging, through education and other means, understanding, tolerance and respect in all matters relating to freedom of religion or belief and undertaking all appropriate efforts to encourage those engaged in teaching to promote mutual understanding and tolerance;

13. *Stresses* the need to strengthen dialogue and notes in this regard the Alliance of Civilizations and the High Representative for the Alliance of Civilizations and the designation, in pursuance of the request made to the Secretary-General in General Assembly resolution 61/221 of 20 December 2006, of a focal point within the Secretariat to interact with various entities in the United Nations system and coordinate their contribution to dialogue;

14. *Emphasizes* the importance of a continued and strengthened dialogue among and within religions or beliefs, at all levels and with a broader participation, including of women, to promote greater tolerance, respect and mutual understanding;

15. *Invites* all actors to address in the context of interreligious and intercultural dialogue, inter alia, the following issues within the framework of international human rights:

(a) The rise of religious extremism affecting religions in all parts of the world;

(b) The situations where violence and discrimination that affect many women as well as individuals from other vulnerable groups are carried out in the name of religion or belief or in accordance with cultural and traditional practices;

(c) The abuse of religion or belief for ends inconsistent with the Charter of the United Nations and other relevant instruments of the United Nations;

16. *Welcomes and encourages* the continuing efforts of all actors in society, including non-governmental organizations and bodies and groups based on religion or belief, to promote the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,[6] and further encourages their work in promoting freedom of religion or belief and in highlighting cases of religious intolerance, discrimination and persecution;

17. *Recommends* that States, the United Nations and other actors, including non-governmental organizations and bodies and groups based on religion or belief, in their efforts to promote freedom of religion or belief, ensure the widest possible dissemination of the text of the Declaration, in as many different languages as possible, and promote its implementation;

18. *Welcomes* the work and the interim report of the Special Rapporteur on freedom of religion or belief;[7]

19. *Urges* all Governments to cooperate fully with the Special Rapporteur, to respond favourably to her requests to visit their countries and to provide all necessary information for the effective fulfilment of her mandate;

20. *Requests* the Secretary-General to ensure that the Special Rapporteur receives the necessary resources to fully discharge her mandate;

21. *Requests* the Special Rapporteur to submit an interim report to the General Assembly at its sixty-fourth session;

22. *Decides* to consider the question of the elimination of all forms of religious intolerance at its sixty-fourth session under the item entitled "Promotion and protection of human rights".

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[6] See resolution 36/55.

[7] See A/63/161.

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Agenda item 64 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Andorra, Argentina, Armenia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Bulgaria, Central African Republic, Chile, Costa Rica, Côte d'Ivoire, Croatia, Czech Republic, Denmark, El Salvador, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malta, Monaco, Netherlands, New Zealand, Norway, Paraguay, Peru, Poland, Portugal, Romania, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Ukraine, United Kingdom of Great Britain and Northern Ireland and Venezuela (Bolivarian Republic of): revised draft resolution

Elimination of all forms of intolerance and of discrimination based on religion or belief

The General Assembly,

Recalling its resolution 36/55 of 25 November 1981, by which it proclaimed the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,

Recalling also article 18 of the International Covenant on Civil and Political Rights,[1] article 18 of the Universal Declaration of Human Rights[2] and other relevant human rights provisions,

Recalling further its previous resolutions on the elimination of all forms of intolerance and of discrimination based on religion or belief, including resolution 62/157 of 18 December 2007, as well as Human Rights Council resolution 6/37 of

[1] See resolution 2200 A (XXI), annex.

[2] Resolution 217 A (III).

08-61406 (E) 241108

14 December 2007,[3] in which the Council, inter alia, extended the mandate of the Special Rapporteur on freedom of religion or belief,[4]

Reaffirming the recognition by the 1993 World Conference on Human Rights that all human rights are universal, indivisible, interdependent and interrelated, and its call upon all Governments to take all appropriate measures in compliance with their international obligations and with due regard to their respective legal systems to counter intolerance and related violence based on religion or belief, including practices of discrimination against women and the desecration of religious sites, recognizing that every individual has the right to freedom of thought, conscience, expression and religion,[5]

Considering that religion or belief, for those who profess either, is one of the fundamental elements in their conception of life and that freedom of religion or belief should be fully respected and guaranteed,

Considering also that the disregard for and infringement of human rights and fundamental freedoms, in particular the right to freedom of thought, conscience and religion or belief, have brought, directly or indirectly, wars and great suffering to humankind,

Recognizing the important work carried out by the Human Rights Committee in providing guidance with respect to the scope of the freedom of religion or belief,

Resolved to speed up the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,

Believing that further intensified efforts are therefore required to promote and protect the right to freedom of thought, conscience and religion or belief and to eliminate all forms of hatred, intolerance and discrimination based on religion or belief, as also noted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,

Reaffirming that everyone has the right to freedom of thought, conscience, religion or belief, which includes the freedom to change one's religion or belief and the freedom, either alone or in community with others and in public or private, to manifest one's religion or belief in teaching, practice, worship and observance,

Concerned at attacks on religious places, sites and shrines, including any deliberate destruction of relics and monuments,

Seriously concerned at misuse of registration procedures and at the resort to discriminatory registration procedures as a means to limit the right to freedom of religion or belief of members of certain religious communities, at the limitations placed on religious materials and at the obstacles placed in the way of construction of places of worship inconsistent with the exercise of the right to freedom of religion or belief,

Noting that a formal or legal distinction at national level between different kinds of religions or beliefs may, in some cases, constitute discrimination and may impinge on the enjoyment of the freedom of religion or belief,

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[3] See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53* (A/63/53), chap. I, sect. A.

[4] Ibid., para. 18.

[5] See A/CONF.157/24 (Part I), chap. III, sect. II, para. 22.

Recognizing the importance of interreligious and intrareligious dialogue in promoting tolerance in matters relating to religion or belief, and welcoming different initiatives in this regard, including the Alliance of Civilizations and the programmes led by the United Nations Educational, Scientific and Cultural Organization,

Emphasizing that States, regional organizations, non-governmental organizations, religious bodies and the media have an important role to play in promoting tolerance, respect and freedom of religion or belief,

Convinced of the need to address the rise in all parts of the world of religious extremism that affects the rights of individuals, the situations where violence and discrimination that affect many women as well as individuals from other vulnerable groups are carried out in the name of religion or belief or in accordance with cultural and traditional practices, and the misuse of religion or belief for ends inconsistent with the Charter of the United Nations, as well as other relevant instruments of the United Nations,

Underlining the importance of education in the promotion of tolerance, which involves the acceptance by the public of, and its respect for, diversity, including with regard to religious expression, and underlining also the fact that education, in particular at school, should contribute in a meaningful way to promoting tolerance and the elimination of discrimination based on religion or belief,

1. *Condemns* all forms of intolerance and of discrimination based on religion or belief, as well as violations of freedom of thought, conscience and religion or belief;

2. *Stresses* that the right to freedom of thought, conscience and religion applies equally to all people, regardless of their religions or beliefs, and without any discrimination as to their equal protection by the law;

3. *Emphasizes* that, as underlined by the Human Rights Committee, restrictions on the freedom to manifest one's religion or belief are permitted only if limitations are prescribed by law, are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others, and are applied in a manner that does not vitiate the right to freedom of thought, conscience and religion, which implies that those limitations must be non-discriminatory and directly related and proportionate to the specific need on which they are predicated;

4. *Recognizes with deep concern* the overall rise in instances of intolerance and violence directed against members of many religious and other communities in various parts of the world, including cases motivated by Islamophobia, anti-Semitism and Christianophobia;

5. *Expresses concern* over the persistence of institutionalized social intolerance and discrimination practised against many in the name of religion or belief;

6. *Recalls* that legal procedures pertaining to religious or belief-based groups and places of worship are not a prerequisite for the exercise of the right to manifest one's religion or belief;

7. *Emphasizes* that the conduct of such procedures, as described in paragraph 5 above, at the national or local level, and as and when legally required,

should be non-discriminatory in order to contribute to the effective protection of the right of all persons to practise their religion or belief either individually or in community with others and in public or private;

8. *Recognizes with concern* the situation of persons in vulnerable situations, including persons deprived of their liberty, refugees, asylum-seekers and internally displaced persons, children, persons belonging to national or ethnic, religious and linguistic minorities and migrants, as regards their ability to freely exercise their right to freedom of religion or belief;

9. *Urges* States to step up their efforts to eliminate intolerance and discrimination based on religion or belief, and to this end:

(a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practise freely one's religion, including the right to change one's religion or belief, is violated;

(b) To ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief and that no one is subjected to torture and other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights;

(c) To ensure that no one is discriminated against on the basis of his or her religion or belief when accessing, inter alia, education, medical care, employment, humanitarian assistance or social benefits;

(d) To review, whenever relevant, existing registration practices in order to ensure that such practices do not limit the right of any person to manifest his or her religion or belief, alone or in community with others and in public or in private;

(e) To ensure that no official documents are withheld for reasons grounded in a person's religion or belief and that if religious affiliation is mentioned in any such documents, the individual has the right to refrain from disclosing this type of information, or to indicate "other religion" or "no religion";

(f) To refrain from forcing someone who wishes to fill a public post to take an oath swearing his or her allegiance to any religion against his will;

(g) To provide, in the case where official recognition of religious marriages exists, for the alternative of a civil registration of marriages;

(h) To ensure the right of all persons to worship or assemble in connection with a religion or belief and their right to establish and maintain places for these purposes and the right of all persons to write, issue and disseminate relevant publications in these areas;

(i) To ensure, in particular, that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom of all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected;

(j) To exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights law, to ensure that religious places, sites, shrines and symbols are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration and destruction;

(k) To ensure that all public officials and civil servants, including members of law enforcement bodies, the military and educators, in the course of fulfilling their official duties, respect all religions or beliefs and do not discriminate for reasons based on religion or belief, and that all necessary and appropriate education or training is provided;

10. *Condemns* any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence, whether it involves the use of print, audio-visual or electronic media or any other means;

11. *Emphasizes* that freedom of religion or belief and freedom of expression are interdependent, interrelated and mutually reinforcing;

12. *Urges* States to step up their efforts to eliminate intolerance and discrimination based on religion or belief, notably by:

(a) Taking all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, discrimination and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to members of religious minorities in all parts of the world, and devoting particular attention to practices that violate the human rights of women and discriminate against women, including in the exercise of their right to freedom of thought, conscience, religion or belief;

(b) Promoting and encouraging, through education and other means, understanding, tolerance and respect in all matters relating to freedom of religion or belief and undertaking all appropriate efforts to encourage those engaged in teaching to promote mutual understanding, tolerance and respect;

13. *Stresses* the need to strengthen dialogue, inter alia, through the Alliance of Civilizations and the High Representative for the Alliance and the focal point designated within the Secretariat, as welcomed by the General Assembly in its resolution 62/90, to interact with various entities in the United Nations system and coordinate their contribution to dialogue;

14. *Emphasizes* the importance of a continued and strengthened dialogue among and within religions or beliefs, at all levels and with a broader participation, including of women, to promote greater tolerance, respect and mutual understanding;

15. *Invites* all actors to address in the context of interreligious and intercultural dialogue, inter alia, the following issues within the framework of international human rights:

(a) The rise of religious extremism affecting religions in all parts of the world;

(b) The situations where violence and discrimination that affect many women as well as individuals from other vulnerable groups are carried out in the name of religion or belief or in accordance with cultural and traditional practices;

(c) The misuse of religion or belief for ends inconsistent with the Charter of the United Nations as well as other relevant instruments of the United Nations;

16. *Welcomes and encourages* the continuing efforts of all actors in society, including non-governmental organizations and bodies and groups based on religion or belief, to promote the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,[6] and further encourages their work in promoting freedom of religion or belief and in highlighting cases of religious intolerance, discrimination and persecution;

17. *Recommends* that States, the United Nations and other actors, including non-governmental organizations and bodies and groups based on religion or belief, in their efforts to promote freedom of religion or belief, ensure the widest possible dissemination of the text of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, in as many different languages as possible, and promote its implementation;

18. *Welcomes* the work and the interim report of the Special Rapporteur on freedom of religion or belief;[7]

19. *Urges* all Governments to cooperate fully with the Special Rapporteur, to respond favourably to her requests to visit their countries and to provide all necessary information for the effective fulfilment of her mandate;

20. *Requests* the Secretary-General to ensure that the Special Rapporteur receives the necessary resources to fully discharge her mandate;

21. *Requests* the Special Rapporteur to submit an interim report to the General Assembly at its sixty-fourth session;

22. *Decides* to consider the question of the elimination of all forms of religious intolerance at its sixty-fourth session under the item entitled "Promotion and protection of human rights".

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[6] See resolution 36/55.

[7] See A/63/161.

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Third Committee

Agenda item 64 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Andorra, Argentina, Armenia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, Netherlands, Norway, Panama, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Timor-Leste, United Kingdom of Great Britain and Northern Ireland and Venezuela (Bolivarian Republic of): draft resolution

Extrajudicial, summary or arbitrary executions

The General Assembly,

Recalling the Universal Declaration of Human Rights,[1] which guarantees the right to life, liberty and security of person, the relevant provisions of the International Covenant on Civil and Political Rights[2] and other relevant human rights conventions,

Reaffirming the mandate of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions, as set out in Human Rights Council resolution 8/3,

Welcoming the universal ratification of the Geneva Conventions of 12 August 1949,[3] which alongside human rights law provide an important framework of accountability in relation to extrajudicial, summary or arbitrary executions during armed conflict,

Mindful of all its resolutions on the subject of extrajudicial, summary or arbitrary executions and the resolutions of the Commission on Human Rights and of the Human Rights Council on the subject,

[1] Resolution 217 A (III).

[2] See resolution 2200 A (XXI), annex.

[3] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

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Noting with deep concern that impunity continues to be a major cause of the perpetuation of violations of human rights, including extrajudicial, summary or arbitrary executions,

Acknowledging that international human rights law and international humanitarian law are complementary and not mutually exclusive,

Noting with deep concern the growing number of civilians and persons *hors de combat* killed in situations of armed conflict and internal strife,

Acknowledging that extrajudicial, summary or arbitrary executions may under certain circumstances amount to genocide, crimes against humanity or war crimes, as defined in international law, including in the Rome Statute of the International Criminal Court,[4] and recalling in this regard that each individual State has the primary responsibility to protect its populations from such crimes,

Convinced of the need for effective action to prevent, combat and eliminate the abhorrent practice of extrajudicial, summary or arbitrary executions, which represent flagrant violations of human rights, particularly the right to life,

1. *Strongly condemns once again* all the extrajudicial, summary or arbitrary executions that continue to occur throughout the world;

2. *Demands* that all States ensure that the practice of extrajudicial, summary or arbitrary executions is brought to an end and that they take effective action to prevent, combat and eliminate the phenomenon in all its forms and manifestations;

3. *Reiterates* the obligation of all States to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions, to identify and bring to justice those responsible, while ensuring the right of every person to a fair and public hearing by a competent, independent and impartial tribunal established by law, to grant adequate compensation within a reasonable time to the victims or their families, and to adopt all necessary measures, including legal and judicial measures, to put an end to impunity and to prevent the further occurrence of such executions, as recommended in the Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions;[5]

4. *Calls upon* Governments and invites intergovernmental and non-governmental organizations to pay greater attention to the work of national-level commissions of inquiry into extrajudicial, summary or arbitrary executions with a view to encouraging, facilitating and monitoring compliance with relevant international human rights standards;

5. *Calls upon* all States in which the death penalty has not been abolished to prevent extrajudicial, summary or arbitrary executions by complying with their obligations under relevant provisions of international human rights instruments, including in particular articles 6, 7 and 14 of the International Covenant on Civil and Political Rights[2] and articles 37 and 40 of the Convention on the Rights of the Child,[6] bearing in mind the safeguards and guarantees set out in Economic and Social Council resolutions 1984/50 of 25 May 1984 and 1989/64 of 24 May 1989,

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[4] Ibid., vol. 2187, No. 38544.

[5] Economic and Social Council resolution 1989/65, annex.

[6] United Nations, *Treaty Series*, vol. 1577, No. 27531.

and taking into account the recommendations of the Special Rapporteur regarding the need to respect essential procedural guarantees, including the right to seek pardon or commutation of sentence;

6. *Urges* all States:

(a) To take all necessary and possible measures, in conformity with international human rights law and international humanitarian law, to prevent loss of life, in particular that of children, during public demonstrations, internal and communal violence, civil unrest, public emergencies or armed conflicts, and to ensure that the police, law enforcement agents, armed forces and other agents acting on behalf of or with the consent or acquiescence of the State act with restraint and in conformity with international human rights law and international humanitarian law, including the principles of proportionality and necessity, and in this regard to ensure that police and law enforcement officials are guided by the Code of Conduct for Law Enforcement Officials[7] and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;[8]

(b) To ensure the effective protection of the right to life of all persons under their jurisdiction and to investigate promptly and thoroughly all killings, including those targeted at specific groups of persons, such as racially motivated violence leading to the death of the victim, killings of persons belonging to national or ethnic, religious and linguistic minorities, of refugees, internally displaced persons, migrants, street children or members of indigenous communities, killings of persons for reasons related to their activities as human rights defenders, lawyers, journalists or demonstrators, killings committed in the name of passion or in the name of honour, all killings committed for any discriminatory reason, including sexual orientation, as well as all other cases where a person's right to life has been violated, and to bring those responsible to justice before a competent, independent and impartial judiciary at the national or, where appropriate, international level, and to ensure that such killings, including those committed by security forces, police and law enforcement agents, paramilitary groups or private forces, are neither condoned nor sanctioned by State officials or personnel;

7. *Affirms* the obligation of States, in order to prevent extrajudicial, summary or arbitrary executions, to protect the lives of all persons deprived of their liberty in all circumstances and to investigate and respond to deaths in custody;

8. *Urges* all States to ensure that persons deprived of their liberty are treated humanely and with full respect for their human rights and to ensure that their treatment, including judicial guarantees, and conditions conform to the Standard Minimum Rules for the Treatment of Prisoners[9] and, where applicable, to the Geneva Conventions of 12 August 1949[3] and the Additional Protocols thereto of 8 June 1977[10] in relation to all persons detained in armed conflict, as well as to other pertinent international instruments;

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[7] Resolution 34/169, annex.

[8] See *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.

[9] *Human Rights: A Compilation of International Instruments*, Volume I (First Part): *Universal Instruments* (United Nations publication, Sales No. E.02.XIV.4 (Vol. I, Part 1)), sect. J, No. 34.

[10] United Nations, *Treaty Series*, vol. 1125, Nos. 17512 and 17513.

9. *Welcomes* the International Criminal Court as an important contribution to ending impunity concerning extrajudicial, summary or arbitrary executions, and, taking note of the growing awareness of the Court worldwide, calls upon those States that are under an obligation to cooperate with the Court to provide such cooperation and assistance in the future, in particular with regard to arrest and surrender, the provision of evidence, the protection and relocation of victims and witnesses and the enforcement of sentences, and further welcomes the fact that one hundred and eight States have already ratified or acceded to and that one hundred and thirty-nine States have signed the Rome Statute of the Court,[4] and calls upon all those States that have not ratified or acceded to the Rome Statute to give serious consideration to doing so;

10. *Acknowledges* the importance of ensuring the protection of witnesses for the prosecution of those suspected of extrajudicial, summary or arbitrary executions, and urges States to intensify efforts to establish and implement effective witness protection programmes, and in this regard encourages the Office of the United Nations High Commissioner for Human Rights to develop practical tools designed to encourage and facilitate greater attention to the protection of witnesses;

11. *Encourages* Governments and intergovernmental and non-governmental organizations to organize training programmes and to support projects with a view to training or educating military forces, law enforcement officers and government officials in human rights and humanitarian law issues connected with their work and to include a gender and child rights perspective in such training, and appeals to the international community and requests the Office of the United Nations High Commissioner for Human Rights to support endeavours to that end;

12. *Takes note with appreciation* of the interim report of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions to the General Assembly;[11]

13. *Commends* the important role that the Special Rapporteur plays towards the elimination of extrajudicial, summary or arbitrary executions, and encourages the Special Rapporteur to continue, within his mandate, to collect information from all concerned, to respond effectively to reliable information that comes before him, to follow up on communications and country visits and to seek the views and comments of Governments and to reflect them, as appropriate, in his reports;

14. *Acknowledges* the important role of the Special Rapporteur in identifying cases where extrajudicial, summary and arbitrary executions could amount to genocide and crimes against humanity or war crimes, and urges him to collaborate with the United Nations High Commissioner for Human Rights and, as appropriate, the Special Adviser to the Secretary-General on the Prevention of Genocide, in addressing situations of extrajudicial, summary or arbitrary executions that are of particularly serious concern or in which early action might prevent further deterioration;

15. *Welcomes* the cooperation established between the Special Rapporteur and other United Nations mechanisms and procedures in the field of human rights, and encourages the Special Rapporteur to continue efforts in that regard;

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[11] See A/61/311.

16. *Urges* all States, in particular those that have not done so, to cooperate with the Special Rapporteur so that his mandate can be carried out effectively, including by favourably and rapidly responding to requests for visits, mindful that country visits are one of the essential tools for the fulfilment of the mandate of the Special Rapporteur, and by responding in a timely manner to communications and other requests transmitted to them by the Special Rapporteur;

17. *Expresses its appreciation* to those States that have received the Special Rapporteur and asks them to examine his recommendations carefully, invites them to inform him of the actions taken on those recommendations, and requests other States to cooperate in a similar way;

18. *Again requests* the Secretary-General to continue to use his best endeavours in cases where the minimum standards of legal safeguards provided for in articles 6, 9, 14 and 15 of the International Covenant on Civil and Political Rights appear not to have been respected;

19. *Requests* the Secretary-General to provide the Special Rapporteur with adequate human, financial and material resources to enable him to carry out his mandate effectively, including through country visits;

20. *Also requests* the Secretary-General to continue, in close collaboration with the High Commissioner, in conformity with the mandate of the High Commissioner established by the General Assembly in its resolution 48/141 of 20 December 1993, to ensure that personnel specialized in human rights and humanitarian law issues form part of United Nations missions, where appropriate, in order to deal with serious violations of human rights, such as extrajudicial, summary or arbitrary executions;

21. *Requests* the Special Rapporteur to submit to the General Assembly at its sixty-fourth and sixty-fifth sessions a report on the situation worldwide in regard to extrajudicial, summary or arbitrary executions and his recommendations for more effective action to combat this phenomenon;

22. *Decides* to continue its consideration of this question at its sixty-fifth session.

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Sixty-third session

Third Committee

Agenda item 64 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Benin, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, New Zealand, Norway, Panama, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay and Venezuela (Bolivarian Republic of): revised draft resolution

Extrajudicial, summary or arbitrary executions

The General Assembly,

Recalling the Universal Declaration of Human Rights,[1] which guarantees the right to life, liberty and security of person, the relevant provisions of the International Covenant on Civil and Political Rights[2] and other relevant human rights conventions,

Reaffirming the mandate of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions, as set out in Human Rights Council resolution 8/3,

Welcoming the universal ratification of the Geneva Conventions of 12 August 1949,[3] which alongside human rights law provide an important framework of

[1] Resolution 217 A (III).

[2] See resolution 2200 A (XXI), annex.

[3] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

08-60847 (E) 191108

accountability in relation to extrajudicial, summary or arbitrary executions during armed conflict,

Mindful of all its resolutions on the subject of extrajudicial, summary or arbitrary executions and the resolutions of the Commission on Human Rights and of the Human Rights Council on the subject,

Noting with deep concern that impunity continues to be a major cause of the perpetuation of violations of human rights, including extrajudicial, summary or arbitrary executions,

Acknowledging that international human rights law and international humanitarian law are complementary and mutually reinforcing,

Noting with deep concern the growing number of civilians and persons *hors de combat* killed in situations of armed conflict and internal strife,

Acknowledging that extrajudicial, summary or arbitrary executions may under certain circumstances amount to genocide, crimes against humanity or war crimes, as defined in international law, including in the Rome Statute of the International Criminal Court,[4] and recalling in this regard that each individual State has the responsibility to protect its populations from such crimes as set out in General Assembly resolution 60/1,

Convinced of the need for effective action to prevent, combat and eliminate the abhorrent practice of extrajudicial, summary or arbitrary executions, which represent flagrant violations of human rights, particularly the right to life,

1. *Strongly condemns once again* all the extrajudicial, summary or arbitrary executions that continue to occur throughout the world;

2. *Demands* that all States ensure that the practice of extrajudicial, summary or arbitrary executions is brought to an end and that they take effective action to prevent, combat and eliminate the phenomenon in all its forms and manifestations;

3. *Reiterates* the obligation of all States to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions, to identify and bring to justice those responsible, while ensuring the right of every person to a fair and public hearing by a competent, independent and impartial tribunal established by law, to grant adequate compensation within a reasonable time to the victims or their families, and to adopt all necessary measures, including legal and judicial measures, to put an end to impunity and to prevent the further occurrence of such executions, as recommended in the Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions;[5]

4. *Calls upon* Governments and invites intergovernmental and non-governmental organizations to pay greater attention to the work of national level commissions of inquiry into extrajudicial, summary or arbitrary executions with a view to ensuring the effective contribution of these commissions to accountability and to combating impunity;

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[4] Ibid., vol. 2187, No. 38544.

[5] Economic and Social Council resolution 1989/65, annex.

5. *Calls upon* all States in which the death penalty has not been abolished to prevent extrajudicial, summary or arbitrary executions by complying with their obligations under relevant provisions of international human rights instruments including in particular articles 6, 7 and 14 of the International Covenant on Civil and Political Rights[5] and articles 37 and 40 of the Convention on the Rights of the Child,[6] bearing in mind the safeguards and guarantees set out in Economic and Social Council resolutions 1984/50 of 25 May 1984 and 1989/64 of 24 May 1989, and taking into account the recommendations of the Special Rapporteur regarding the need to respect essential procedural guarantees, including the right to seek pardon or commutation of sentence;

6. *Urges* all States:

(a) To take all necessary and possible measures, in conformity with international human rights law and international humanitarian law, to prevent loss of life, in particular that of children, during public demonstrations, internal and communal violence, civil unrest, public emergencies or armed conflicts, and to ensure that the police, law enforcement agents, armed forces and other agents acting on behalf of or with the consent or acquiescence of the State act with restraint and in conformity with international human rights law and international humanitarian law, including the principles of proportionality and necessity, and in this regard to ensure that police and law enforcement officials are guided by the Code of Conduct for Law Enforcement Officials[7] and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;[8]

(b) To ensure the effective protection of the right to life of all persons under their jurisdiction and to investigate promptly and thoroughly all killings, including those targeted at specific groups of persons, such as racially motivated violence leading to the death of the victim, killings of persons belonging to national or ethnic, religious and linguistic minorities, killings of persons affected by terrorism, hostage-taking or foreign occupation, killings of refugees, internally displaced persons, migrants, street children or members of indigenous communities, killings of persons for reasons related to their activities as human rights defenders, lawyers, journalists or demonstrators, killings committed in the name of passion or in the name of honour, all killings committed for any discriminatory reason, including sexual orientation, as well as all other cases where a person's right to life has been violated, and to bring those responsible to justice before a competent, independent and impartial judiciary at the national or, where appropriate, international level, and to ensure that such killings, including those committed by security forces, police and law enforcement agents, paramilitary groups or private forces, are neither condoned nor sanctioned by State officials or personnel;

7. *Affirms* the obligation of States, in order to prevent extrajudicial, summary or arbitrary executions, to protect the lives of all persons deprived of their liberty in all circumstances and to investigate and respond to deaths in custody;

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[6] United Nations, *Treaty Series*, vol. 1577, No. 27531.

[7] Resolution 34/169, annex.

[8] See *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.

8. *Urges* all States to ensure that persons deprived of their liberty are treated humanely and with full respect for their human rights and to ensure that their treatment, including judicial guarantees, and conditions conform to the Standard Minimum Rules for the Treatment of Prisoners[9] and, where applicable, to the Geneva Conventions of 12 August 1949[3] and the Additional Protocols thereto of 8 June 1977[10] in relation to all persons detained in armed conflict, as well as to other pertinent international instruments;

9. *Welcomes* the International Criminal Court as an important contribution to ending impunity concerning extrajudicial, summary or arbitrary executions, and, taking note of the growing awareness of the Court worldwide, calls upon those States that are under an obligation to cooperate with the Court to provide such cooperation and assistance in the future, in particular with regard to arrest and surrender, the provision of evidence, the protection and relocation of victims and witnesses and the enforcement of sentences, and further welcomes the fact that one hundred and eight States have already ratified or acceded to and that one hundred and thirty-nine States have signed the Rome Statute of the Court, and calls upon all those States that have not ratified or acceded to the Rome Statute to give serious consideration to doing so;

10. *Acknowledges* the importance of ensuring the protection of witnesses for the prosecution of those suspected of extrajudicial, summary or arbitrary executions, and urges States to intensify efforts to establish and implement effective witness protection programmes or other measures, and in this regard encourages the Office of the United Nations High Commissioner for Human Rights to develop practical tools designed to encourage and facilitate greater attention to the protection of witnesses;

11. *Encourages* Governments and intergovernmental and non-governmental organizations to organize training programmes and to support projects with a view to training or educating military forces, law enforcement officers and government officials in human rights and humanitarian law issues connected with their work and to include a gender and child rights perspective in such training, and appeals to the international community and requests the Office of the United Nations High Commissioner for Human Rights to support endeavours to that end;

12. *Takes note with appreciation* of the interim report of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions to the General Assembly;[11]

13. *Commends* the important role that the Special Rapporteur plays towards the elimination of extrajudicial, summary or arbitrary executions, and encourages the Special Rapporteur to continue, within his mandate, to collect information from all concerned, to respond effectively to reliable information that comes before him, to follow up on communications and country visits and to seek the views and comments of Governments and to reflect them, as appropriate, in his reports;

14. *Acknowledges* the important role of the Special Rapporteur in identifying cases where extrajudicial, summary and arbitrary executions could amount to

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[9] *Human Rights: A Compilation of International Instruments*, Volume I (First Part): *Universal Instruments* (United Nations publication, Sales No. E.02.XIV.4 (Vol. I, Part 1)), sect. J, No. 34.

[10] United Nations, *Treaty Series*, vol. 1125, Nos. 17512 and 17513.

[11] See A/61/311.

genocide and crimes against humanity or war crimes, and urges him to collaborate with the United Nations High Commissioner for Human Rights and, as appropriate, the Special Adviser to the Secretary-General on the Prevention of Genocide, in addressing situations of extrajudicial, summary or arbitrary executions that are of particularly serious concern or in which early action might prevent further deterioration;

15. *Welcomes* the cooperation established between the Special Rapporteur and other United Nations mechanisms and procedures in the field of human rights, and encourages the Special Rapporteur to continue efforts in that regard;

16. *Urges* all States, in particular those that have not done so, to cooperate with the Special Rapporteur so that his mandate can be carried out effectively, including by favourably and rapidly responding to requests for visits, mindful that country visits are one of the essential tools for the fulfilment of the mandate of the Special Rapporteur, and by responding in a timely manner to communications and other requests transmitted to them by the Special Rapporteur;

17. *Expresses its appreciation* to those States that have received the Special Rapporteur and asks them to examine his recommendations carefully, invites them to inform him of the actions taken on those recommendations, and requests other States to cooperate in a similar way;

18. *Again requests* the Secretary-General to continue to use his best endeavours in cases where the minimum standards of legal safeguards provided for in articles 6, 9, 14 and 15 of the International Covenant on Civil and Political Rights appear not to have been respected;

19. *Requests* the Secretary-General to provide the Special Rapporteur with adequate human, financial and material resources to enable him to carry out his mandate effectively, including through country visits;

20. *Also requests* the Secretary-General to continue, in close collaboration with the High Commissioner, in conformity with the mandate of the High Commissioner established by the General Assembly in its resolution 48/141 of 20 December 1993, to ensure that personnel specialized in human rights and humanitarian law issues form part of United Nations missions, where appropriate, in order to deal with serious violations of human rights, such as extrajudicial, summary or arbitrary executions;

21. *Requests* the Special Rapporteur to submit to the General Assembly at its sixty-fourth and sixty-fifth sessions a report on the situation worldwide in regard to extrajudicial, summary or arbitrary executions and his recommendations for more effective action to combat this phenomenon;

22. *Decides* to continue its consideration of this question at its sixty-fifth session.

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Third Committee

Agenda item 64 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Argentina, Armenia, Azerbaijan, Bangladesh, Benin, Chile, Côte d'Ivoire, Ecuador, Georgia, Germany, Kazakhstan, Kyrgyzstan, Romania, Senegal, Spain, the former Yugoslav Republic of Macedonia, Uzbekistan and Venezuela (Bolivarian Republic of): draft resolution

Missing persons

The General Assembly,

Guided by the purposes, principles and provisions of the Charter of the United Nations,

Guided also by the principles and norms of international humanitarian law, in particular the Geneva Conventions of 12 August 1949[1] and the Additional Protocols thereto of 1977,[2] as well as international standards of human rights, in particular the Universal Declaration of Human Rights,[3] the International Covenant on Economic, Social and Cultural Rights,[4] the International Covenant on Civil and Political Rights,[4] the Convention on the Elimination of All Forms of Discrimination against Women,[5] the Convention on the Rights of the Child[6] and the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,[7]

[1] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.
[2] Ibid., vol. 1125, Nos. 17512 and 17513.
[3] Resolution 217 A (III).
[4] See resolution 2200 A (XXI), annex.
[5] United Nations, *Treaty Series*, vol. 1249, No. 20378.
[6] Ibid., vol. 1577, No. 27531.
[7] A/CONF.157/24 (Part I), chap. III.

08-58116 (E) 041108

Welcoming the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance,[8] and looking forward to its entry into force,

Recalling all previous relevant resolutions on missing persons adopted by the General Assembly, as well as the resolutions adopted by the Commission on Human Rights and the Human Rights Council,

Noting with deep concern that armed conflicts are continuing in various parts of the world, often resulting in serious violations of international humanitarian law and human rights law,

Noting also that the issue of persons reported missing in connection with international or non-international armed conflicts, in particular those who are victims of serious violations of international humanitarian law and human rights law, continues to have a negative impact on efforts to put an end to those conflicts and causes suffering to the families of missing persons, and stressing in this regard the need to address the issue from a humanitarian perspective, among others,

Considering that the problem of missing persons may raise questions of international humanitarian law and international human rights law, as appropriate,

Being cognizant that States that are parties to an armed conflict have a responsibility for countering the phenomenon of missing persons and determining the fate of missing persons and for recognizing their accountability as regards implementing the relevant mechanisms, policies and laws,

Bearing in mind the effective search for and identification of missing persons through traditional forensic methods, and recognizing that great technological progress has been achieved in the field of DNA forensic sciences, which could significantly assist efforts to identify missing persons,

Recalling the Agenda for Humanitarian Action, in particular its general objective 1, to "respect and restore the dignity of persons missing as a result of armed conflicts or other situations of armed violence and of their families", adopted at the Twenty-eighth International Conference of the Red Cross and Red Crescent, held in Geneva from 2 to 6 December 2003, and resolution 3 on the reaffirmation and implementation of international humanitarian law, entitled "Preserving human life and dignity in armed conflict", adopted at the Thirtieth International Conference of the Red Cross and Red Crescent, held in Geneva from 26 to 30 November 2007,

Taking note with appreciation of the report of the Secretary-General of 18 August 2008 on missing persons, prepared pursuant to General Assembly resolution 61/155 of 19 December 2006,[9]

Taking note with appreciation also of the ongoing international and regional efforts to address the question of missing persons and of the initiatives undertaken by international and regional organizations in this field,

1. *Urges* States strictly to observe and respect and ensure respect for the rules of international humanitarian law, as set out in the Geneva Conventions of 12 August 1949[1] and, where applicable, in the Additional Protocols thereto of 1977,[2]

[8] Resolution 61/177, annex.

[9] A/63/299.

2. *Calls upon* States that are parties to an armed conflict to take all appropriate measures to prevent persons from going missing in connection with armed conflict and account for persons reported missing as a result of such a situation;

3. *Reaffirms* the right of families to know the fate of their relatives reported missing in connection with armed conflicts;

4. *Also reaffirms* that each party to an armed conflict, as soon as circumstances permit and, at the latest, from the end of active hostilities, shall search for the persons who have been reported missing by an adverse party;

5. *Calls upon* States that are parties to an armed conflict to take all necessary measures, in a timely manner, to determine the identity and fate of persons reported missing in connection with the armed conflict and, to the greatest possible extent, to provide their family members, through appropriate channels, with all relevant information they have on their fate;

6. *Recognizes*, in this regard, the need for the collection, protection and management of data on missing persons according to international and national legal norms and standards, and urges States to cooperate with each other and with other concerned actors working in this area, inter alia, by providing all relevant and appropriate information related to missing persons;

7. *Requests* States to pay the utmost attention to cases of children reported missing in connection with armed conflicts and to take appropriate measures to search for and identify those children and to reunite them with their families;

8. *Invites* States that are parties to an armed conflict to cooperate fully with the International Committee of the Red Cross in establishing the fate of missing persons and to adopt a comprehensive approach to this issue, including all such legal and practical measures and coordination mechanisms as may be necessary, based on humanitarian considerations only;

9. *Urges* States and encourages intergovernmental and non-governmental organizations to take all necessary measures at the national, regional and international levels to address the problem of persons reported missing in connection with armed conflicts and to provide appropriate assistance as requested by the concerned States, and welcomes, in this regard, the establishment and efforts of commissions and working groups on missing persons;

10. *Calls upon* States, without prejudice to their efforts to determine the fate of persons missing in connection with armed conflicts, to take appropriate steps with regard to the legal situation of the missing persons and the need of their family members, in fields such as social welfare, financial matters, family law and property rights;

11. *Stresses* the need for addressing the issue of missing persons as a part of peacebuilding processes, with reference to all justice and rule-of-law mechanisms, on the basis of transparency, accountability and public involvement and participation;

12. *Welcomes* the panel discussion on the question of missing persons held at the ninth session of the Human Rights Council and takes note of the request of the

Human Rights Council to the United Nations High Commissioner for Human Rights to prepare a summary of the panel's deliberations;[10]

13. *Takes note* of the request of the Human Rights Council to its Advisory Committee to prepare a study on the best practices in the matter of missing persons and to submit that study to the Council at its twelfth session;[11]

14. *Invites* relevant human rights mechanisms and procedures, as appropriate, to address the problem of persons reported missing in connection with armed conflicts in their forthcoming reports to the General Assembly;

15. *Requests* the Secretary-General to submit a comprehensive report on the implementation of the present resolution, including relevant recommendations, to the Human Rights Council at its relevant session and to the General Assembly at its sixty-fifth session;

16. *Also requests* the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations bodies, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations;

17. *Decides* to consider the question at its sixty-fifth session.

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[10] See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53A* (A/63/53/Add.1), chap. II, decision 9/101 of 24 September 2008.

[11] Ibid.

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Sixty-third session

Third Committee

Agenda item 64 (e)

Promotion and protection of human rights: Convention on the Rights of Persons with Disabilities

Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, Colombia, Congo, Costa Rica, Croatia, Cuba, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Germany, Guatemala, Guinea, Honduras, Hungary, Ireland, Israel, Italy, Jordan, Lebanon, Luxembourg, Mali, Malta, Mexico, Namibia, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Thailand, the former Yugoslav Republic of Macedonia, Turkey and United Kingdom of Great Britain and Northern Ireland: draft resolution

Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto

The General Assembly,

Recalling its previous relevant resolutions, the most recent of which was resolution 62/170 of 18 December 2007, as well as relevant resolutions of the Human Rights Council, the Commission for Social Development and the Commission on Human Rights,

1. *Welcomes* the entry into force of the Convention on the Rights of Persons with Disabilities[1] and the Optional Protocol thereto[2] on 3 May 2008;

2. *Also welcomes* the fact that, since the opening for signature of the Convention and the Optional Protocol on 30 March 2007, one hundred and thirty-six States have already signed and forty-one States have ratified the Convention and seventy-nine States have signed and twenty-five States have ratified the Optional Protocol, and that one regional integration organization has signed the Convention;*

* Numbers will be updated as required.

[1] Resolution 61/106, annex I.

[2] Ibid., annex II.

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3. *Calls upon* those States which have not yet done so to consider signing and ratifying the Convention and the Optional Protocol as a matter of priority;

4. *Welcomes* the First Meeting of the Conference of States Parties, held on 31 October and 3 November 2008, and the establishment of the Committee on the Rights of Persons with Disabilities;

5. *Welcomes* the report of the Secretary-General on the status of the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto;[3]

6. *Welcomes* the Joint Statement of Commitment to the Convention on the Rights of Persons with Disabilities of the Inter-Agency Support Group;

7. *Invites* the Secretary-General to intensify efforts to assist States to become parties to the Convention and the Optional Protocol, including by providing assistance with a view to achieving universal adherence;

8. *Requests* the Secretary-General to provide the staff and facilities necessary to support the effective performance of the functions of the Conference of States Parties and of the Committee established under the Convention and the Optional Protocol, as well as for the dissemination of information on the Convention and the Optional Protocol, taking into account the provisions of the Convention, in particular on accessibility;

9. *Also requests* the Secretary-General to continue the progressive implementation of standards and guidelines for the accessibility of facilities and services of the United Nations system, taking into account relevant provisions of the Convention, in particular when undertaking renovations, including interim arrangements;

10. *Requests* the Secretary-General to take further actions to promote the rights of persons with disabilities in the United Nations system in accordance with the Convention, including the retention and recruitment of persons with disabilities;

11. *Requests* United Nations agencies and organizations, and invites intergovernmental and non-governmental organizations, to continue to strengthen efforts undertaken to disseminate accessible information on the Convention and the Optional Protocol, including to children and young people to promote their understanding, and to assist States parties in implementing their obligations under these instruments;

12. *Requests* the Secretary-General to submit to the General Assembly at its sixty-fourth session a report on the status of the Convention and the Optional Protocol and the implementation of the present resolution.

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[3] A/63/264 and Corr.1.

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Sixty-third session

Third Committee

Agenda item 64 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Argentina, Azerbaijan, Brazil, Chile, Costa Rica, Ecuador, Egypt, El Salvador, Guatemala, Mexico, Nicaragua, Paraguay, Peru, Philippines: draft resolution

Protection of migrants

The General Assembly,

Recalling all its previous resolutions on the protection of migrants, the most recent of which is resolution 62/156 of 18 December 2007, and recalling also Human Rights Council resolution 9/5 of 24 September 2008,

Reaffirming the Universal Declaration of Human Rights[1] in its sixtieth anniversary year, which proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

Reaffirming also that everyone has the right to freedom of movement and residence within the borders of each State, and to leave any country, including his own, and return to his country,

Recalling the International Covenant on Civil and Political Rights[2] and the International Covenant on Economic, Social and Cultural Rights,[2] the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[3] the Convention on the Elimination of All Forms of Discrimination against Women,[4] the Convention on the Rights of the Child,[5] the International Convention on the

[1] Resolution 217 A (III).

[2] See resolution 2200 A (XXI), annex.

[3] United Nations, *Treaty Series*, vol. 1465, No. 24841.

[4] Ibid., vol. 1249, No. 20378.

[5] Ibid., vol. 1577, No. 27531.

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Elimination of All Forms of Racial Discrimination,[6] the Vienna Convention on Consular Relations[7] and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,[8]

Recalling also the provisions concerning migrants contained in the outcomes of all major United Nations conferences and summits,

Underlining the importance of the Human Rights Council in promoting respect for the protection of the human rights and fundamental freedoms of all, including migrants,

Recalling advisory opinion OC-16/99 of 1 October 1999 on the Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law and advisory opinion OC-18/03 of 17 September 2003 on the Juridical Condition and Rights of Undocumented Migrants, issued by the Inter-American Court of Human Rights,

Taking note of the Judgment of the International Court of Justice of 31 March 2004 in the case concerning *Avena and Other Mexican Nationals*,[9] and recalling the obligations of States reaffirmed therein and subsequent rulings of the International Court of Justice following that Judgment,

Recalling the High-level Dialogue on International Migration and Development, held in New York on 14 and 15 September 2006 for the purpose of discussing the multidimensional aspects of international migration and development, which recognized the relationship between international migration, development and human rights, and taking note of the second meeting of the Global Forum on Migration and Development, organized and hosted by the Government of the Philippines from 27 to 30 October 2008,

Recalling also its resolution 62/270 on the Global Forum on Migration and Development, in which, inter alia, it recognized that exchanges of information and expertise, consultation and closer cooperation between the Global Forum on Migration and Development and the United Nations could have a positive impact,

Noting with appreciation in this regard the conclusions and recommendations of the international meeting on the protection of the rights of children in the context of international migration, held on 30 September and 1 October 2008 in Mexico City, co-organized by the Office of the United Nations High Commissioner for Human Rights, which will be presented to the Global Forum on Migration and Development as a contribution to the discussion on the matter,

Emphasizing the global character of the migratory phenomenon, the importance of international, regional and bilateral cooperation and dialogue in this regard, as appropriate, and the need to protect the human rights of migrants, particularly at a time in which migration flows have increased in the globalized economy and take place in a context of new security concerns,

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[6] Ibid., vol. 660, No. 9464.

[7] Ibid., vol. 596, No. 8638.

[8] Ibid., vol. 2220, No. 39481.

[9] See *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 4* (A/59/4), chap. V, sect. A.23; see also *Avena and Other Mexican Nationals (Mexico v. United States of America), Judgment, I.C.J. Reports 2004*, p. 12.

Bearing in mind that policies and initiatives on the issue of migration, including those that refer to the orderly management of migration, should promote holistic approaches that take into account the causes and consequences of the phenomenon, as well as the full respect for the human rights and fundamental freedoms of migrants,

Noting that many migrant women are employed in the informal economy and in less skilled work compared with that of men, which puts those women at greater risk of abuse and exploitation,

Concerned about the large and growing number of migrants, especially women and children, who place themselves in a vulnerable situation by attempting to cross international borders without the required travel documents, and underlining the obligation of States to respect the human rights of those migrants,

Expressing deep concern at the excessive detention periods to which undocumented migrants might be subject,

Underlining the importance for States, in cooperation with non-governmental organizations, to undertake information campaigns aimed at clarifying opportunities, limitations and rights in the event of migration, so as to enable everyone to make informed decisions and to prevent them from utilizing dangerous means to cross international borders,

1. *Calls upon* States to promote and protect effectively the human rights and fundamental freedoms of all migrants, regardless of their migration status, especially those of women and children, and to address international migration through international, regional or bilateral cooperation and dialogue and through a comprehensive and balanced approach, recognizing the roles and responsibilities of countries of origin, transit and destination in promoting and protecting the human rights of all migrants, and avoiding approaches that might aggravate their vulnerability;

2. *Also calls upon* States to ensure that their laws and policies, including in the areas of counter-terrorism and combating transnational organized crime such as trafficking in persons and smuggling of migrants, fully respect the human rights of migrants;

3. *Calls upon* States that have not done so to consider signing and ratifying or acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families[9] as a matter of priority, and requests the Secretary-General to continue his efforts to raise awareness of and promote the Convention;

4. *Urges* States parties to the United Nations Convention against Transnational Organized Crime[10] and supplementing protocols thereto, namely, the Protocol against the Smuggling of Migrants by Land, Sea and Air[11] and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,[12] to implement them fully, and calls upon States that have not done so to consider ratifying or acceding to them as a matter of priority;

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[10] United Nations, *Treaty Series*, vol. 2225, No. 39574.
[11] Ibid., vol. 2241, No. 39574.
[12] Ibid., vol. 2237, No. 39574.

5. *Takes note* of the report of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on its seventh and eighth sessions;[13]

6. *Requests* all States, international organizations and relevant stakeholders to take into account in their policies and initiatives on migration issues the global character of the migratory phenomenon and to give due consideration to international, regional and bilateral cooperation in this field, including by undertaking dialogues on migration that include countries of origin, destination and transit, as well as civil society, including migrants, with a view to addressing, in a comprehensive manner, inter alia, its causes and consequences and the challenge of undocumented or irregular migration, granting priority to the protection of the human rights of migrants;

7. *Expresses concern* about legislation and measures adopted by some States that may restrict the human rights and fundamental freedoms of migrants, and reaffirms that, when exercising their sovereign right to enact and implement migratory and border security measures, States have the duty to comply with their obligations under international law, including international human rights law, in order to ensure full respect for the human rights of migrants;

8. *Deeply regrets and expresses concern about* the adoption of regulations that criminalize undocumented migration;

9. *Expresses* the view that, as a rule, undocumented migrants should not be subject to detention, and calls on Member States to avoid excessive periods of detention and respect unequivocally the inherent dignity of migrants;

10. *Urges* all States to refrain from taking any type of measure that stigmatizes any group of individuals, regardless of their migration status;

11. *Requests* States to adopt concrete measures to prevent the violation of the human rights of migrants while in transit, including in ports and airports and at borders and migration checkpoints, to train public officials who work in those facilities and in border areas to treat migrants respectfully and in accordance with the law, and to prosecute, in conformity with applicable law, any act of violation of the human rights of migrants, inter alia, arbitrary detention, torture and violations of the right to life, including extrajudicial executions, during their transit from their country of origin to the country of destination and vice versa, including their transit through national borders;

12. *Recalls* that the Universal Declaration of Human Rights recognizes that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him or her;

13. *Commends* States that have successfully implemented alternative measures to detention for undocumented migrants as a best practice that deserves serious consideration by all States;

14. *Urges* States to ensure that repatriation mechanisms allow for the identification and special protection of persons in vulnerable situations and take into account, in conformity with their international obligations and commitments, the principle of the best interest of the child and family reunification;

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[13] *Official Records of the General Assembly, Sixty-third Session, Supplement No. 48* (A/63/48).

15. *Underlines* the right of migrants to return to their country of citizenship;

16. *Reaffirms emphatically* the duty of States parties to ensure full respect for and observance of the Vienna Convention on Consular Relations,[7] in particular with regard to the right of all foreign nationals, regardless of their immigration status, to communicate with a consular official of the sending State in case of arrest, imprisonment, custody or detention, and the obligation of the receiving State to inform the foreign national without delay of his or her rights under the Convention;

17. *Strongly condemns* the manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes often applied to them, including on the basis of religion or belief, and urges States to apply and, where applicable, reinforce the existing laws when xenophobic or intolerant acts, manifestations or expressions against migrants occur, in order to eradicate impunity for those who commit xenophobic and racist acts;

18. *Requests* all States, in conformity with national legislation and applicable international legal instruments to which they are party, to enforce labour law effectively, including by addressing violations of such law, with regard to migrant workers' labour relations and working conditions, inter alia, those related to their remuneration and conditions of health, safety at work and the right to freedom of association;

19. *Encourages* all States to remove obstacles that may prevent the safe, unrestricted and expeditious transfer of remittances of migrants to their country of origin or to any other countries, in conformity with applicable legislation, and to consider, as appropriate, measures to solve other problems that may impede such transfers;

20. *Welcomes* immigration programmes, adopted by some countries, that allow migrants to integrate fully into the host countries, facilitate family reunification and promote a harmonious, tolerant and respectful environment, and encourages States to consider the possibility of adopting these types of programmes;

21. *Requests* Member States, the United Nations system, international organizations, civil society and all relevant stakeholders, especially the United Nations High Commissioner for Human Rights and the Special Rapporteur on the human rights of migrants, to ensure that the perspective of the human rights of migrants is included among the priority issues in the ongoing discussions on international migration and development within the United Nations system, bearing in mind the discussions of the High-level Dialogue on International Migration and Development held pursuant to General Assembly resolution 58/208 of 23 December 2003;

22. *Invites* the Chairperson of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to address the General Assembly at its future sessions under the agenda item "Promotion and protection of human rights";

23. *Invites* the Special Rapporteur on the human rights of migrants to present his report to the General Assembly at its future sessions under the agenda item "Promotion and protection of human rights";

24. *Invites* Member States to strengthen their efforts to develop data and statistics as well as to collect information on the contribution of migrants to all spheres of society and to provide such data to the Secretary-General;

25. *Welcomes* the inclusion of the item on the human rights of migrants in the agenda of the Global Forum on Migration and Development and encourages organizers of the Global Forum to continue to include the human rights perspective;

26. *Requests* the Secretary-General to provide the resources necessary, from within existing resources of the United Nations, for the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to meet for two separate sessions in 2009, the first session to be of two consecutive weeks' duration and the second session to be of one week's duration, for the purpose of meeting the demands of the workload arising from the increasing number of reports of States parties that have been submitted to the Committee, and invites the Committee to consider ways of further improving the effectiveness of its working sessions;

27. *Also requests* the Secretary-General to report on the implementation of the present resolution at its sixty-third fourth session and to include in that report an analysis of the ways and means to promote the human rights of migrants, taking into account the views of the Special Rapporteur on the human rights of migrants, and decides to examine the question further under the item entitled "Promotion and protection of human rights".

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Agenda item 64 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Algeria, Argentina, Armenia, Azerbaijan, Belarus, Benin, Brazil, Chile, Colombia, Comoros, Costa Rica, Côte d'Ivoire, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Ghana, Guatemala, Guinea, Haiti, Honduras, Indonesia, Iraq, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Mexico, Morocco, Nicaragua, Nigeria, Paraguay, Peru, Philippines, Senegal, Sri Lanka, Sudan, Tajikistan and Uruguay: revised draft resolution

Protection of migrants

The General Assembly,

Recalling all its previous resolutions on the protection of migrants, the most recent of which is resolution 62/156 of 18 December 2007, and recalling also Human Rights Council resolution 9/5 of 24 September 2008,

Reaffirming the Universal Declaration of Human Rights[1] in its sixtieth anniversary year, which proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

Reaffirming also that everyone has the right to freedom of movement and residence within the borders of each State, and to leave any country, including his own, and return to his country,

Recalling the International Covenant on Civil and Political Rights[2] and the International Covenant on Economic, Social and Cultural Rights,[2] the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[3]

[1] Resolution 217 A (III).

[2] See resolution 2200 A (XXI), annex.

[3] United Nations, *Treaty Series*, vol. 1465, No. 24841.

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the Convention on the Elimination of All Forms of Discrimination against Women,[4] the Convention on the Rights of the Child,[5] the International Convention on the Elimination of All Forms of Racial Discrimination,[6] the Vienna Convention on Consular Relations[7] and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,[8]

Recalling also the provisions concerning migrants contained in the outcomes of all major United Nations conferences and summits,

Underlining the importance of the Human Rights Council in promoting respect for the protection of the human rights and fundamental freedoms of all, including migrants,

Taking note of advisory opinion OC-16/99 of 1 October 1999 on the Right to information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law and advisory opinion OC-18/03 of 17 September 2003 on the Juridical Condition and Rights of Undocumented Migrants, issued by the Inter-American Court of Human Rights,

Taking note also of the Judgment of the International Court of Justice of 31 March 2004 in the case concerning *Avena and Other Mexican Nationals*,[9] and recalling the obligations of States reaffirmed therein and subsequent rulings of the International Court of Justice following that Judgment,

Recalling the High-level Dialogue on International Migration and Development, held in New York on 14 and 15 September 2006 for the purpose of discussing the multidimensional aspects of international migration and development, which recognized the relationship between international migration, development and human rights,

Taking note of the second meeting of the Global Forum on Migration and Development, organized and hosted by the Government of the Philippines in October 2008, and recognizing the inclusion of a discussion on migration, development and human rights as one of the steps to address the multidimensional nature of international migration,

Recalling its resolution 62/270 of 20 June 2008 on the Global Forum on Migration and Development in which, inter alia, it recognized that exchanges of information and expertise, consultation and closer cooperation between the Global Forum on Migration and Development and the United Nations could have a positive impact,

Noting the international meeting on the protection of the rights of children in the context of international migration, held on 30 September and 1 October 2008 in Mexico City, co-organized by the Office of the United Nations High Commissioner for Human Rights,

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[4] Ibid., vol. 1249, No. 20378.

[5] Ibid., vol. 1577, No. 27531.

[6] Ibid., vol. 660, No. 9464.

[7] Ibid., vol. 596, No. 8638.

[8] Ibid., vol. 2220, No. 39481.

[9] See *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 4* (A/59/4), chap. V, sect. A.23; see also *Avena and Other Mexican Nationals (Mexico v. United States of America), Judgment, I.C.J. Reports 2004*, p. 12.

Emphasizing the global character of the migratory phenomenon, the importance of international, regional and bilateral cooperation and dialogue in this regard, as appropriate, and the need to protect the human rights of migrants, particularly at a time in which migration flows have increased in the globalized economy and take place in a context of new security concerns,

Bearing in mind that policies and initiatives on the issue of migration, including those that refer to the orderly management of migration, should promote holistic approaches that take into account the causes and consequences of the phenomenon, as well as the full respect for the human rights and fundamental freedoms of migrants,

Noting that many migrant women are employed in the informal economy and in less skilled work compared with that of men, which puts those women at greater risk of abuse and exploitation,

Concerned about the large and growing number of migrants, especially women and children, who place themselves in a vulnerable situation by attempting to cross international borders without the required travel documents, and recognizing the obligation of States to respect the human rights of those migrants,

Stressing the importance of regulations and laws regarding irregular migration being in accordance with States' obligations under international law, including international human rights law,

Stressing also that penalties and the treatment given to irregular migrants should be commensurate with their infraction,

Recognizing the importance of having a comprehensive and balanced approach to international migration, and bearing in mind that migration enriches the economical, political, social and cultural fabric of States and the historical and cultural ties that exist among some regions,

Underlining the importance for States, in cooperation with non-governmental organizations, to undertake information campaigns aimed at clarifying opportunities, limitations and rights in the event of migration, so as to enable everyone to make informed decisions and to prevent them from utilizing dangerous means to cross international borders,

1. *Calls upon* States to promote and protect effectively the human rights and fundamental freedoms of all migrants, regardless of their migration status, especially those of women and children, and to address international migration through international, regional or bilateral cooperation and dialogue and through a comprehensive and balanced approach, recognizing the roles and responsibilities of countries of origin, transit and destination in promoting and protecting the human rights of all migrants, and avoiding approaches that might aggravate their vulnerability;

2. *Also calls upon* States to ensure that their laws and policies, including in the areas of counter-terrorism and combating transnational organized crime such as trafficking in persons and smuggling of migrants, fully respect the human rights of migrants;

3. *Calls upon* States that have not done so to consider signing and ratifying or acceding to the International Convention on the Protection of the Rights of All

Migrant Workers and Members of Their Families[8] as a matter of priority, and requests the Secretary-General to continue his efforts to raise awareness of and promote the Convention;

4. *Urges* States parties to the United Nations Convention against Transnational Organized Crime[10] and supplementing protocols thereto, namely, the Protocol against the Smuggling of Migrants by Land, Sea and Air[11] and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,[12] to implement them fully, and calls upon States that have not done so to consider ratifying or acceding to them as a matter of priority;

5. *Takes note* of the report of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on its seventh and eighth sessions;[13]

6. *Requests* all States, international organizations and relevant stakeholders to take into account in their policies and initiatives on migration issues the global character of the migratory phenomenon and to give due consideration to international, regional and bilateral cooperation in this field, including by undertaking dialogues on migration that include countries of origin, destination and transit, as well as civil society, including migrants, with a view to addressing, in a comprehensive manner, inter alia, its causes and consequences and the challenge of undocumented or irregular migration, granting priority to the protection of the human rights of migrants;

7. *Expresses concern* about legislation and measures adopted by some States that may restrict the human rights and fundamental freedoms of migrants, and reaffirms that, when exercising their sovereign right to enact and implement migratory and border security measures, States have the duty to comply with their obligations under international law, including international human rights law, in order to ensure full respect for the human rights of migrants;

8. *Takes note with appreciation* of the measures adopted by some States to reduce detention periods for irregular migrants in the application of domestic regulations and laws regarding irregular migration;

9. *Calls upon* all States to respect the human rights and the inherent dignity of migrants and to put an end to arbitrary arrest and detention and, where necessary, to review detention periods in order to avoid excessive detention of irregular migrants, and to adopt, where applicable, alternative measures to their detention;

10. *Urges* all States to adopt effective measures to prevent and punish any form of illegal deprivation of liberty of migrants by individuals or groups;

11. *Requests* States to adopt concrete measures to prevent the violation of the human rights of migrants while in transit, including in ports and airports and at borders and migration checkpoints, to train public officials who work in those facilities and in border areas to treat migrants respectfully and in accordance with the law, and to prosecute, in conformity with applicable law, any act of violation of the human rights of migrants, inter alia, arbitrary detention, torture and violations of

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[10] United Nations, *Treaty Series*, vol. 2225, No. 39574.

[11] Ibid., vol. 2241, No. 39574.

[12] Ibid., vol. 2237, No. 39574.

[13] *Official Records of the General Assembly, Sixty-third Session, Supplement No. 48* (A/63/48).

the right to life, including extrajudicial executions, during their transit from their country of origin to the country of destination and vice versa, including their transit through national borders;

12. *Recalls* that the Universal Declaration of Human Rights recognizes that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him or her;

13. *Takes note with appreciation* of the successful implementation by some States of alternative measures to detention in cases of undocumented migration as a practice that deserves consideration by all States;

14. *Urges* States to ensure that repatriation mechanisms allow for the identification and special protection of persons in vulnerable situations and take into account, in conformity with their international obligations and commitments, the principle of the best interest of the child and family reunification;

15. *Underlines* the right of migrants to return to their country of citizenship, and recalls that States must ensure that their returning nationals are duly received;

16. *Reaffirms emphatically* the duty of States parties to ensure full respect for and observance of the Vienna Convention on Consular Relations,[7] in particular with regard to the right of all foreign nationals, regardless of their immigration status, to communicate with a consular official of the sending State in case of arrest, imprisonment, custody or detention, and the obligation of the receiving State to inform the foreign national without delay of his or her rights under the Convention;

17. *Strongly condemns* the manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes often applied to them, including on the basis of religion or belief, and urges States to apply and, where needed, reinforce the existing laws when xenophobic or intolerant acts, manifestations or expressions against migrants occur, in order to eradicate impunity for those who commit xenophobic and racist acts;

18. *Requests* all States, in conformity with national legislation and applicable international legal instruments to which they are party, to enforce labour law effectively, including by addressing violations of such law, with regard to migrant workers' labour relations and working conditions, inter alia, those related to their remuneration and conditions of health, safety at work and the right to freedom of association;

19. *Encourages* all States to remove obstacles that may prevent the safe, unrestricted and expeditious transfer of remittances of migrants to their country of origin or to any other countries, in conformity with applicable legislation, and to consider, as appropriate, measures to solve other problems that may impede such transfers;

20. *Welcomes* immigration programmes, adopted by some countries, that allow migrants to integrate fully into the host countries, facilitate family reunification and promote a harmonious, tolerant and respectful environment, and encourages States to consider the possibility of adopting these types of programmes;

21. *Requests* Member States, the United Nations system, international organizations, civil society and all relevant stakeholders, especially the United Nations High Commissioner for Human Rights and the Special Rapporteur on the

human rights of migrants, to ensure that the perspective of the human rights of migrants is included among the priority issues in the ongoing discussions on international migration and development within the United Nations system, bearing in mind the discussions of the High-level Dialogue on International Migration and Development held pursuant to General Assembly resolution 58/208 of 23 December 2003;

22. *Invites* the Chairperson of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to address the General Assembly at its future sessions under the agenda item "Promotion and protection of human rights";

23. *Invites* the Special Rapporteur on the human rights of migrants to present his report to the General Assembly at its future sessions under the agenda item "Promotion and protection of human rights";

24. *Invites* Member States to strengthen their efforts to raise awareness of the important contribution of migrants to all spheres of society and to consider the development of appropriate tools to highlight the contribution of migrants to recipient countries, including through the collection of data and the development of statistics;

25. *Requests* the Secretary-General to provide the resources necessary, from within existing resources of the United Nations, for the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to meet for two separate sessions in 2009, the first session to be of two consecutive weeks' duration and the second session to be of one week's duration, for the purpose of meeting the demands of the workload arising from the increasing number of reports of States parties that have been submitted to the Committee, and invites the Committee to consider ways of further improving the effectiveness of its working sessions;

26. *Also requests* the Secretary-General to report on the implementation of the present resolution at its sixty-fourth session and to include in that report an analysis of the ways and means to promote the human rights of migrants, taking into account the views of the Special Rapporteur on the human rights of migrants, and decides to examine the question further under the item entitled "Promotion and protection of human rights".